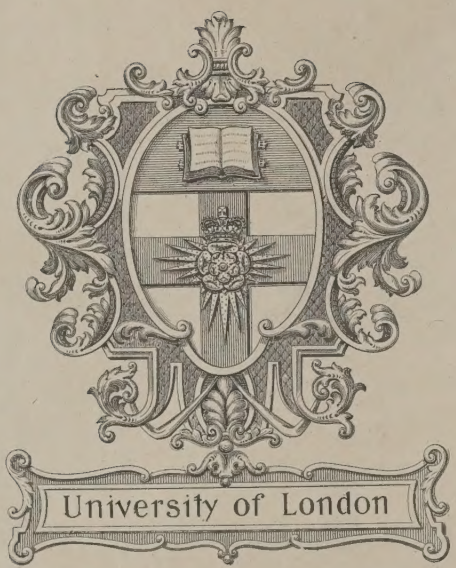
University of London

REPORTS

FROM

COMMITTEES:

ELEVEN VOLUMES.

—(8.)—

COALWHIPPERS ACT;

DUCHY OF LANCASTER (BERTOLACCI'S PETITION);

SALE OF POISONS, &c. BILL.

Session

30 *April* —— 28 *August* 1857.

VOL. XII.

1857—Sess. 2.

REPORTS FROM COMMITTEES:

1857—Sess. 2.

ELEVEN VOLUMES:—CONTENTS OF THE

EIGHTH VOLUME.

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Brought from the Lords, 20 August 1857.

REPORT

FROM THE

SELECT COMMITTEE OF THE HOUSE OF LORDS

ON

THE COALWHIPPERS ACT;

TOGETHER WITH THE

PROCEEDINGS OF THE COMMITTEE,

MINUTES OF EVIDENCE,

APPENDIX, AND INDEX.

Ordered, by The House of Commons, *to be Printed,*
21 *August* 1857.

286—Sess. 2.

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REPORT.

BY THE SELECT COMMITTEE appointed to inquire into the Operation of the COALWHIPPERS ACT, 14th & 15th Victoria, and into the STATE of the TRADE and COALWHIPPER since the Expiration of said Act, and to Report thereon to The House; and to whom were referred a Petition of Coalowners and Shipowners of Northumberland and Durham, and of Clergy and Inhabitants of Tower Hamlets :—

ORDERED TO REPORT,

THAT the Committee have met, and considered the subject-matter referred to them, and have examined several Witnesses in relation thereto; and, after fully weighing the Evidence laid before them, are of opinion, that the present condition of the Coalwhippers, as a class, is deserving of consideration, and that the grievances alleged are in part susceptible of remedy.

In so far as their complaints relate to an insufficiency of employment, and a consequent depression of wages, the Committee consider their grievances to be beyond the province of legislation. They do not concur in the expediency of reviving the Act of 1843.

In so far as their complaints refer to the hardships under which they suffer from contracting their engagements, or receiving their wages, in a public-house, a practice which operates unfairly upon them, as involving a deduction from their earnings for drink, and which is morally injurious, as encouraging habits of intoxication, the Committee are of opinion that they are entitled to the consideration of Parliament.

Following, therefore, the avowed intentions of the Legislature, as shown in the Coalwhippers Act of 1803, and subsequent Acts; in the Agreement of 18th June 1856 between the Board of Trade and the Coalowners; in the principle of the Truck Act, the Merchant Shipping Act, and in others, the Committee recommend that any shipowner, masters of vessels, or publican, or their agents, contracting or discharging their engagements with Coalwhippers, or paying wages to Coalwhippers, in a public-house, shall incur a penalty of £. in every case proved.

With this view, they suggest that each employer shall keep a register of labour, in which, together with other details, the time and place where each Coalwhipper has been paid shall be duly entered, and which shall be always open to the inspection of any officer deputed by the Board of Trade, or by the Magistrate of the district, or by any person commissioned by him.

And the Committee have directed the MINUTES OF EVIDENCE taken before them, together with an APPENDIX, to be laid before your Lordships.

24 July 1857.

ORDER OF REFERENCE.

Die Veneris, 10° *Julii* 1857.

Moved, That a Select Committee be appointed to inquire into the operation of the Coalwhippers Act, 14 & 15 Vict., and into the state of the Trade and Coalwhipper since the expiration of said Act, and to report thereon to the House:—Agreed to.

The Lords following were named of the Committee: The Committee to meet on Monday next, at Twelve o'clock, and to appoint their own Chairman; and the Petition of Coalowners and Shipowners of Northumberland and Durham (presented on Tuesday last) referred to the Committee:

D. Cleveland,
E. Shaftesbury.
E. Carnarvon.
E. Vane.
E. Durham.
V. Sydney.
V. Dungannon.
V. Hutchinson.
L. Polwarth.
L. Calthorpe.
L. Colchester.
L. Ravensworth.
L. Wynford.
L. Rossie.
L. Portman.
L. Stanley of Alderley.

LORDS PRESENT, AND MINUTES OF PROCEEDINGS AT EACH SITTING OF THE COMMITTEE.

Die Lunæ, 13° *Julii* 1857.

LORDS PRESENT:

Duke of Cleveland.	Lord Calthorpe.
Earl Vane.	Lord Ravensworth.
Earl of Durham.	Lord Wynford.
Viscount Sydney.	Lord Rossie.
Viscount Dungannon.	Lord Portman.
Viscount Hutchinson.	Lord Stanley of Alderley.
Lord Polwarth.	

Order of Reference read.

Order of the House, empowering the Committee to appoint their own Chairman, read.

It is proposed that the Lord Rossie should take the Chair.

The same is agreed to, and the Lord Rossie takes the Chair accordingly.

Order read, referring to the Committee a Petition of Coalowners and Shipowners of Northumberland and Durham.

The said Petition is read.

Discussion.

The following Witnesses are called in, and examined, and are directed to withdraw:—(*Vide* the Evidence), viz., *Henry Barthorp, Thomas Charrington, George Coomber, William Fryer, John Foster, John Barber.*

Ordered, That this Committee be adjourned till To-morrow, One o'clock.

Die Martis, 14° *Julii* 1857.

LORDS PRESENT:

Duke of Cleveland.	Lord Calthorpe.
Earl of Shaftesbury.	Lord Colchester.
Earl of Carnarvon.	Lord Ravensworth.
Earl Vane.	Lord Wynford.
Earl of Durham.	Lord Rossie.
Viscount Sydney.	Lord Portman.
Viscount Dungannon.	Lord Stanley of Alderley.
Lord Polwarth.	

The LORD ROSSIE in the Chair.

Order of Adjournment read.

The Proceedings of the Committee of yesterday are read.

Order read, referring to the Committee a Petition for the renewal of the said Act of Clergy and Inhabitants of Tower Hamlets.

The said Petition is read.

The following Witnesses are called in, and examined, and are directed to withdraw:—(*Vide* the Evidence), viz., *John Sullivan, Matthew Hutton Chaytor*, Rev. *Thomas Champneys, Simon Finn.*

Ordered, That this Committee be adjourned till Thursday next, Two o'clock.

Die Jovis, 16° *Julii* 1857.

LORDS PRESENT:

Duke of Cleveland.	Lord Polwarth.
Earl of Carnarvon.	Lord Calthorpe.
Earl Vane.	Lord Colchester.
Earl of Durham.	Lord Ravensworth.
Viscount Sydney.	Lord Rossie.
Viscount Dungannon.	Lord Stanley of Alderley.

The Lord Rossie in the Chair.

Order of Adjournment read.

The Proceedings of the Committee of Tuesday last are read.

Discussion.

The following Witnesses are called in, and examined, and are directed to withdraw:—(*Vide* the Evidence), viz., *John Farrow, John Foster, John Barber, John Foley.*

Ordered, That this Committee be adjourned till To-morrow, half-past Two o'clock.

Die Veneris, 17° *Julii* 1857.

LORDS PRESENT:

Duke of Cleveland.	Lord Polwarth.
Earl of Carnarvon.	Lord Calthorpe.
Earl Vane.	Lord Colchester.
Earl of Durham.	Lord Ravensworth.
Viscount Sydney.	Lord Rossie.
Viscount Dungannon.	Lord Stanley of Alderley.

The Lord Rossie in the Chair.

Order of Adjournment read.

The Proceedings of the Committee of yesterday are read.

The following Witnesses are called in, and examined, and are directed to withdraw:—(*Vide* the Evidence), viz., *Henry Morton, Alfred Chapman, John Trustham.*

Ordered, That this Committee be adjourned till Thursday next, One o'clock.

Die Jovis, 23° *Julii* 1857.

LORDS PRESENT:

Duke of Cleveland.	Lord Polwarth.
Earl of Shaftesbury.	Lord Calthorpe.
Earl of Carnarvon.	Lord Colchester.
Earl Vane.	Lord Ravensworth.
Earl of Durham.	Lord Wynford.
Viscount Sydney.	Lord Rossie.
Viscount Dungannon.	Lord Stanley of Alderley.

The Lord Rossie in the Chair.

Order of Adjournment read.

The Proceedings of the Committee of Friday last are read.

The following Witnesses are called in, and examined, and directed to withdraw:—(*Vide* the Evidence), viz., *John Foley, William Spooner.*

The Right Honourable *William Ewart Gladstone*, a Member of the House of Commons, attending, is examined, and withdraws. (*Vide* the Evidence.)

Discussion.

A Draft Report, prepared by the Chairman, is laid before the Committee.

The same is, after discussion, withdrawn.

It is moved by the Earl Vane to resolve, "That, in the opinion of this Committee, sufficient evidence has not been adduced which would warrant a renewal of the Coalwhippers Act, 14 & 15 Vict. c. 78."

Objected to.—On Question,

Content:	Not Content:
Duke of Cleveland.	Lord Rossie.
Earl of Shaftesbury.	
Earl of Carnarnon.	
Earl Vane.	
Earl of Durham.	
Viscount Sydney.	
Viscount Dungannon.	
Lord Polwarth.	
Lord Calthorpe.	
Lord Colchester.	
Lord Ravensworth.	
Lord Stanley of Alderley.	

It is then moved by the Earl of Carnarvon to resolve—

"1. That the Committee, after fully weighing the Evidence laid before them, concur in thinking that the present condition of the Coalwhippers, as a class, is deserving of consideration, and that the grievances alleged are in part susceptible of remedy.

"2. In so far as their complaints relate to an insufficiency of employment, and a consequent depression of wages, the Committee consider their grievances to be beyond the province of legislation. They do not concur in the expediency of reviving the Act of 1843.

"3. In so far as their complaints refer to the hardships under which they suffer from contracting their engagements, or receiving their wages, in a public-house, a practice which operates unfairly upon them, as involving a deduction from their earnings for drink, and which is morally injurious, as encouraging habits of intoxication, the Committee think that they are entitled to the consideration of Parliament.

"4. Following, therefore, the avowed intentions of the Legislature, as shown in the Coalwhippers Act of 1803 and subsequent Acts; in the agreement of 18th June 1856 between the Board of Trade and the Coalowners; in the principle of the Truck Act, the Merchant Shipping Act, and in others, the Committee recommend that any shipowner, masters of vessels, or publican, or their agents, contracting or discharging their engagements with Coalwhippers, or paying wages to Coalwhippers, in a public-house, shall incur a penalty of £. in every case proved.

"5. With this view, they suggest that each employer shall keep a register of labour, in which, together with other details, the time and place where each Coalwhipper has been paid shall be duly entered, and which shall be always open to the inspection of any officer deputed by the Board of Trade, or by the Magistrate of the district, or by any person commissioned by him."

Objected to.—On Question,

Content:	Not Content:
Duke of Cleveland.	Lord Rossie.
Earl of Shaftesbury.	
Earl of Carnarvon.	
Earl Vane.	
Earl of Durham.	
Viscount Sydney.	
Viscount Dungannon.	
Lord Polwarth.	
Lord Calthorpe.	
Lord Colchester.	
Lord Ravensworth.	
Lord Stanley of Alderly.	

The Draft of a Report having been prepared, the same is read by the Clerk, and agreed to. (*Vide* the Report).

Ordered, That the Lord in the Chair do make the said Report to the House.

MINUTES OF EVIDENCE.

LIST OF WITNESSES.

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Die Lunæ, 13° *Julii* 1857.

LORDS PRESENT:

Duke of Cleveland.	Lord Calthorpe.
Earl Vane.	Lord Ravensworth.
Earl of Durham.	Lord Wynford.
Viscount Sydney.	Lord Rossie.
Viscount Dungannon.	Lord Portman.
Viscount Hutchinson.	Lord Stanley of Alderley.
Lord Polwarth.	

THE LORD ROSSIE in the Chair.

Evidence on the Coalwhippers Act.

Mr. H. Barthorpe.

13th July 1857.

Mr. HENRY BARTHORPE is called in, and examined as follows:

1. *Chairman.*] WHAT is your present employment?
I am at present a clerk at the Ballast Heavers' Office.

2. Were you ever a coalwhipper?
I was a coalwhipper about 20 years, rather over than under.

3. Did you work at the Coalwhippers' Office?
About 10 years I worked at the Coalwhippers' Office, till within about two years of the Act expiring, and 10 years under the public-house system.

4. Earl *Vane.*] What Act do you refer to?
The Coalwhippers Act.

5. *Chairman.*] Then you can speak as to the state of the coalwhippers before the Act passed and after the Act passed?
In order that the Committee may get at something like a correct opinion as to the system and the necessity for a change, I think I had better at once state that I worked for a man of the name of Miller, an agent, who was most extensively patronised by the shipowners; sometimes he would have 18 or 20 ships at work in one day. He was in the habit of selling meat of a most inferior character, which I have no hesitation in saying that he would charge double the price for, and sometimes more. Before I worked at the coal work, having worked as a butcher, perhaps I was a competent judge on the subject. I know that he charged more than double price; it was of a most inferior character, and the beer which he sold he would charge 9 *d.* a pot for. The gear, that is, the shovels and tools, some of it very much worn, he would charge as much as 4 *s.* a man for the use of. In fact, you will understand his character if I state that he would not hesitate to say, on a morning when he was speaking to the men, that if a man could produce a bigger rogue than he was, he would present him with a 5 *l.* note. I merely state this that you may form a correct opinion as to the necessity which there was for some change.

6. Lord *Stanley* of Alderley.] What time are you speaking of?
I am speaking now of nearly 20 years back, certainly. I merely mention this fact to show that there was a necessity for a change; it is sometimes asserted that there was no necessity.

7. *Chairman.*] Did the change by the introduction of the Act give satisfaction to the coalwhippers?
The change from the public-house system to the office?

Mr. H. Barthorpe.

13th July 1857.

8. Yes?
I should say most decidedly.

9. Did it give satisfaction or dissatisfaction to the coal-merchants, shipowners, and coalowners?
I had not an opportunity of getting access to the shipowners, particularly as the majority of them lived in the north of England, but I frequently conversed with the captains, and all, with scarcely an exception, expressed themselves decidedly favourable to the change. I had an opportunity of waiting upon the coal-merchants: when the Act had expired, I waited upon the coal-merchants to solicit their signatures to a petition for the renewal of the Bill, and I think that the whole of them, with about two exceptions, signed it, and expressed themselves decidedly favourable towards it.

10. Lord *Stanley* of Alderley.] When did you cease to act as a coalwhipper?
I acted as one till within about two years of the expiration of the Coalwhippers Act, about three and a half years ago.

11. Then you cannot speak from your own knowledge of the state of things which has existed since the expiration of that Act?
Only from living in the neighbourhood, and seeing the coalwhippers, and conversing with them, and from them I ascertain that they are generally in a very depressed condition.

12. Lord *Polwarth.*] Have they returned to the condition which they were in, or approaching the condition which they were in, which you spoke of just now?
A very considerable portion of them are at work at public-houses, and I have no doubt that if all exertion was dropped, and the private office left to stand as it now does, in a very short time the thing would lapse into the old system, from the experience which I have had of the matter.

13. Earl *Vane.*] Then, in your opinion, the private office has done good?
A very small amount of good. The section of the men there is perhaps more than at the public-houses; but there is a very considerable number away from the office.

14. Lord *Stanley* of Alderley.] Do you think that there are as large a number now engaged from publicans as are engaged from the office?
Perhaps not quite so many.

15. What is the proportion?
I cannot exactly say. I live in the neighbourhood, and spend my time daily in it.

16. Viscount *Sydney.*] What are you at present?
I am filling the situation of clerk at the Ballast Heavers' Office.

17. *Chairman.*] Are the shipowners, do you think, generally opposed to this measure?
I do not think the shipowners, as a body, are.

18. Viscount *Dungannon.*] What reason have you for thinking so?
My own opinion is, that the hostility to the renewal of the Act arises from two or three of the merchants having been summoned to the Thames Police Office, who were fined for evading the Act; they have made the best of their position, and worked up a hostility; but I do not believe that the shipowners, as a body, are opposed to the Coalwhippers Act.

19. Lord *Calthorpe.*] When was it that those merchants were fined?
I think it was previously to the expiring of the Act. I cannot state the exact date; there will be no difficulty in getting the date.

20. Viscount *Dungannon.*] How long is it since the Act expired?
It was in the last Session of Parliament.

21. Lord *Ravensworth.*] Can you speak from your own knowledge of the relative proportion of coalwhippers who are engaged at the office maintained by the coal trade, and those who are as it were floating in the market, and who are engaged through the medium of publicans?
I can

I can only state this in answer to that question, that I live in the neighbourhood; I am in it every hour in the day; I pass by several public-houses, and I am in the habit of asking coalwhippers how they get through, knowing hundreds of them. I ascertain that a very considerable number of them are working away from the office, and at public-houses: I cannot give the number, but a very considerable number.

22. Viscount *Sydney*.] But they do that voluntarily, I suppose?
They do it voluntarily.

23. Lord *Ravensworth*.] They might go to the Coalwhippers' Office maintained by the coal trade, and engage themselves there if they pleased, might they not?
They might go and attend at the office; but my opinion is, that the degrees of relationship, or influence, or interest which seem to exist between the shipowner, or their relatives, and some people who hold the public-houses, are always the strongest, and unless the office takes the work at a lower rate of pay than the publican, the office cannot get it. Directly the publican says, "I will do it for the sum," the publican seems to get the work.

24. It is from the publicans getting the work that the complaints arise?
Yes; the men now working at the office are apprehensive that what work they have got will flow back to the public-house, and the men who are compelled, from necessity, to go and seek this work at the public-house are also apprehensive of the old state of things arising.

25. Lord *Stanley* of Alderley.] Why are they compelled to go to the public-house for work?
The publican seems to have interest enough to draw the work, and the men are compelled by the law of necessity to try and earn a shilling.

26. Why cannot the men go to the office, and get work there?
Because there is not work enough there for them.

27. Then why is there work at the public-houses?
Because the captain gives the work to the publican, and if the poor coalwhipper declines to go there, he can go to the dock gates, and get men.

28. Do the men engaged by the publicans get better or worse wages than the men engaged at the office?
I cannot exactly say; they both get very bad pay now.

29. *Chairman*.] But have the men at the public-house to give up any part of their wages to the public-house keeper?
The publican, deriving no profit whatever from employing the men, is compelled of necessity to sell his drink; and those who will take most, of course meet with the most encouragement.

30. Lord *Stanley* of Alderley.] But if he is compelled by his necessities to levy a tax in the shape of drink, what is it that compels the workman to buy that drink from him?
I can only state I have tried other ways without purchasing drink to obtain work, but could not under the old public-house system. There is always a superabundant supply of labourers in London, and poor men are compelled of necessity to go and earn a shilling where they can. If they can get it on advantageous terms, they will; and if not, they will take it on less advantageous terms.

31. Lord *Ravensworth*.] Has the whole number of the population of coalwhippers increased or diminished within the last 20 years, according to your belief?
I should say they have rather diminished.

32. And yet the quantity of coals brought to the London market has enormously increased?
Yes, but a great many of them are brought up by railway.

33. And some of the ships also are discharged by means of machinery, are they not?
Yes.

34. In your opinion, are those two causes sufficient to account for the diminution in the aggregate of the population of the coalwhippers?

Mr. H. Barthorpe.

13th July 1857.

There is no doubt it has operated most injuriously to the coalwhippers, inasmuch as men who have spent their whole time at coal work, and have become advanced in life, are not suitable to get other employment, and there not being half work enough for them, they are in a bad position.

35. You were a coalwhipper for 20 years, and have got other employment?

But other men have not the advantage which I have, and perhaps other men have not made the best use of their time as I have done.

36. Lord *Polwarth.*] Do the publicans offer the coalwhippers any temptation to come to them, such as credit?

I do not say that a particular publican has ever said, "I expect you to drink with me," but still it is the general understanding, and the system is bad on both sides. It opens the door on the part of the publican to sell bad drink, and to practise a system of fraud; and it also opens the door on the part of the men to hustle and jostle one another out of their fair work.

37. Do the publicans allow the coalwhippers to come to their houses and drink, and then get into debt?

Yes; a man would resort to the practice, and say, "I want a pot of beer, master;" he has rent to pay, and a family to support, and the publican says, "I must let him run up a score."

38. And having let him run up a score, he gets the man into his hands?

Yes.

39. Lord *Calthorpe.*] Have any of the publicans received the wages for the men?

Not having been personally engaged in the matter these last two or three years, I cannot state that.

40. Viscount *Dungannon.*] Used they to do so formerly when you were a coalwhipper?

Yes.

41. They used to receive the wages?

Yes.

42. Will you state the way the money is transferred into the publican's hands before they were received?

Yes; you will have evidence to prove that the money is transferred into the publican's hands before the men receive it. I am not an eye-witness of such matters.

43. *Chairman.*] I see that the petition refers to the alteration in the price which was paid per ton for the coal and the wages which the men received previously to the Act; was there any difference in the price paid for a ton of coal and the wages to the men previously to the Act and after the operation of the Act?

During the 10 years that I worked at the coal work before the Act was passed, the wages were 11 *d.*, 9 *d.*, and 8 *d.* per ton; that was previously to the establishment of the Coalwhippers' Office.

44. How many tons could a man whip at that time on the average?

I myself have done as much as 180 tons a day; but that is taxing a man's strength to too great an extent.

45. Lord *Stanley* of Alderley.] That is with the gang?

Yes; I have done my part.

46. *Chairman.*] How many constitute a gang?

Nine.

47. Lord *Stanley* of Alderley.] What did you earn during the existence of the office?

I did not keep any account; but I should say I averaged somewhere about 22 *s.* a week.

48. What were the different rates per ton?

I have

I have given the answer, that previously to the establishment of the office, it was 11 *d.*, 9 *d.*, and 8 *d.*, sometimes a little lower; there have been ships worked as low as 4½ *d.* at the office.

49. We are speaking first of the time before the office existed?
Eleven-pence farthing, 9 *d.*, and 8 *d.*; that was 10 years previously to the office being established.

50. Now give us the rates during the existence of the office?
During the existence of the office I should say 9 *d.*, 8 *d.*, and 7 *d.*; that was about the average: there was occasionally a ship less, but very trifling.

51. What do you understand is the rate at which the coal is whipped at present since the cessation of the office?
I see that the men at the new office now in existence are receiving 7 *d.* a ton.

52. Earl *Vane.*] Has the establishment of that office increased the cost of the work required to be done?
Does your Lordship mean the Coalwhippers' Office while the Act of Parliament was in operation?

53. Yes?
I should say not, because for the 10 years previously the coalwhippers' wages were more; for the 10 years previously they were 11¼ *d.*, 9 *d.*, and 8 *d.*; during the existence of the office they were 9 *d.*, 8 *d.*, and 7 *d.*

54. Lord *Stanley* of Alderley.] In the gangs that were engaged from the office were all the men equally efficient, or were some weaker and some stronger men?
There were some more able than others.

55. Were the wages equally divided among the whole gang?
Yes; the eight men were selected, and, as far as possible, the strength of the youthful was blended with that of a man more advanced; and they were made, as far as possible, a united gang of sufficient strength to go through the job; there were some men no doubt defective; it is of no use attempting to deny it. I have always seen that there was a difficulty in that way. At the same time it is exceedingly hard to wind yourself up, and say to a man after he has been working for a good many years, that you will send him away because he is of no use any longer.

56. In the case of a gang of efficient men, they could not have got work at the office without taking with them a proportion of inferior men?
The registrar endeavoured to mix them in; I will say that he took five youthful men of good stalwart strength, and he would take three men of inferior strength, and make them up into a gang, and endeavour to get it in that way, so as to equalise the strength. That is the chief object of a person having the management of an office.

57. An active and efficient gang of men could not have gone and offered to do the work by themselves, and get higher wages; but they were obliged to take with them a certain proportion of inferior men?
No; the office was not formed in any way like that; they could go and make such a proposition; the office was not based on such a principle; I never saw such a proposition made, and never heard of its being made.

58. The principle of the office, if I understand you, was this, that the gangs were selected partly of efficient men and partly of inefficient men, or men not so efficient?
Men of a less powerful strength, so that together they could accomplish the job in a satisfactory way; I myself feel bound to state that, as a coalwhipper, I scarcely ever heard a complaint in that respect.

59. Lord *Calthorpe.*] How was it before the Act came into operation; did the publicans who employed the men select efficient and inefficient men to form a gang?
I have certainly known publicans send men of far inferior strength than even the office would send; the publicans would not turn off a man if he could run up a score, and pay it.

Mr. H. Barthorpe.

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60. Was that more the case before the Act came into operation than since?
Much about the same; the publicans did not turn off an old man if he could do a day's work.

61. *Chairman.*] Should you consider that the publicans' gangs in the days of the public-house system were always efficient?
There were often stoppages of the work, and considerable delay, through men drinking to rather a greater excess than they should have done; I have frequently seen it myself.

62. So that a drunken man did not do more work than one of these men said to be less efficient?
The men being in a gang, the others were anxious to put forth their strength, and make the best they could of the drunken man, and get through as well as they could.

63. Before the passing of the Act were there ever any strikes?
They were of a very frequent character.

64. Were there any after the passing of the Act?
I never knew of one; if the men got down too low, they would make a respectful demand, and say that they expected a little more. The men were receiving 9*d.* a ton, and a proposition was brought to them from the coal-factors that freights were low, and that they ought to meet the case by lowering their wages; the proposition was made to the men, and they lowered their wages from 9*d.* to 8*d.* a ton, payable at the office.

65. During the operation of the Act?
During the operation of the Act. Another proposition was brought to them some time further on, that freights were still depressed, and that they ought to come a little lower, and they came down from 8*d.* to 7*d.*

66. Voluntarily?
Yes; the transition took place with scarcely a murmur.

67. Would that have been the case previously to the Act, should you think?
No; the coalwhippers could be under no such control; there were some intelligent men at the office who saw their position, and that the office could only stand by their working on moderate terms, and they would always bring their intelligence to bear on the less-informed, and tell them that so-and-so was the case, and the men complied with it.

68. Then that would be a considerable advantage to the coalowners?
I should say myself that it was a considerable advantage.

69. Lord *Ravensworth.*] But there is an office now for the engagement of coalwhippers?
Yes; but that office is powerless to effect the object, I think.

70. *Chairman.*] Before the passing of the Act, was there ever any difficulty from a number of ships coming into the pool at once, and the inability of getting men to discharge them?
Very frequently; I should say, that as regards the instant supply of men when a glut of ships would arrive on the spot, the office in that respect was certainly advantageous to the shipowners.

71. Was it advantageous to the men in this respect, that they knew when they would be called upon, their names being on the register, and that they could go and get other work, and still be ready when their turn came?
Yes; if they knew that they were not wanted that day, of course they would not stop idling about there; and if they went about, and found that they could pick up a day's work, they went and did it.

72. But without an office a man could not be sure whether his services would be required?
Under the old system he could pretty well ascertain after a certain hour whether there was any chance of work, and if not, he would then roam about, and pick up a day's work at the docks, or wherever he could.

73. Viscount *Dungannon.*] You say that you are in the daily habit of communicating with the coalwhippers?

I spend

I spend my time in the neighbourhood, and if I meet them, I ask them how they are going on.

74. You meet them very frequently?
Yes, every day.

75. Do you ever hear any complaints from them?
Yes, very often.

76. On what ground?
That a man is badly off; that his home is wretched, and that he is only half fed. I have no hesitation in saying that the majority of them spent yesterday, being Sunday, in their homes, totally unable to come out in a decent state, fit to go to a place of worship.

77. By whom are they fed?
They feed themselves, of course, out of what little they earn.

78. Do they drink away all their wages, or nearly all of them, in consequence of being under the necessity of going to these public-houses?
They complain that this office is inefficient; that it is powerless to accomplish what it professes.

79. Lord *Calthorpe.*] Before the operation of the Act were the strikes managed by the publicans or by the men?
By the men.

80. Influenced by the publicans?
No; I do not consider that. The publicans, knowing that they would benefit by it, I should say did nothing either to thwart it or to advance it.

81. *Chairman.*] Was the price of coal raised by the establishment of the office?
I should say not from my own experience; I have never found it so, nor do I believe that the public think anything of the kind, that the coalwhippers' wages have raised the price of coal.

82. Do the coal-merchants receive payment from the shipowners, and pay the men?
I have not been an eye-witness of that, but I know that it is done.

83. In what way have the coal-merchants suffered in their interests by the existence of the office?
The coal-merchants I do not believe have suffered at all, inasmuch as I waited upon them to get them to sign a petition, and, with three exceptions, they all signed it, and the coal-factors, as a body, came down to Mr. Green, the chairman of the Commissioners, when the Act was going to be renewed, and stated that they had no fault to find with the Act, and wished it to be renewed.

84. Then the coal-merchants and the shippers, you think, are favourable to the office?
It is my belief that they are not averse to the establishment of an office.

85. Lord *Calthorpe.*] Though the quantity of coal imported into London has very much increased, is there an increase or decrease as far as the sea-going ships are concerned: you have stated that the quantity of coal imported into London has very much increased; but then that is partly owing to the railways: I wish to know whether the coal imported into London by sea has increased or decreased?
From what I can perceive of the shipping in the pool, I should say that the supply by shipping has decreased.

86. Earl of *Durham.*] Have the coalwhippers any objection to go to the new office?
No; they would gladly go to the new office, if they were confident that office could provide them with full work; but when the men have to go to the office, and wait about a week, or perhaps three days, and can get no work, and they find that a ship can be obtained at a public-house, their necessities are of that nature that they prefer going there.

87. Lord *Stanley* of Alderley.] Does the office fail to procure them work?
Certainly.

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88. Do you know that as a fact?
Yes, they are not employed above half their time.

89. You think that the men who are employed at the office are not employed above half their time?
From what I hear of them, I know of their often waiting a week, and frequently four days, for a job, and a man with a large family, at a low rate of pay, cannot afford to wait, but is compelled to seek work either in the streets or where he can get it.

90. Viscount *Dungannon.*] Are you constantly in the habit of falling in with people who state themselves to be in that condition?
Yes: I do not go out to find them; but as I am moving along in my daily avocations, I come across them; you cannot walk along the river side without seeing them.

91. *Chairman.*] Then you think that the operation of the new office has not been effectual, as far as the men are concerned?
I should say that it has completely failed to supply them with even common comforts.

92. And the old evils of the public-house system are again in operation?
There is every appearance of it, that the old evils will again revive.

93. Do you think that any voluntary office would be effectual to prevent men resorting to the public-house?
No; I do not think a voluntary office possesses similar power. You will always find an interest prevailing with the publicans or lodging-house keepers, or some parties connected with the captains; you will always find that they have a countervailing interest.

The Witness is directed to withdraw.

THOMAS CHARRINGTON, Esquire, is called in, and examined as follows:

T. Charrington, Esq.

94. *Chairman.*] I BELIEVE you are a coal-merchant?
I am.

95. Have you been for some time a coal-merchant?
Yes.

96. For how long?
About 12 years.

97. You were not a coal-merchant before the Act came in?
No.

98. But during the operation of the late Act you were a coal-merchant?
Yes.

99. Can you tell the Committee anything about the operation of the Coal-whippers Act as affecting your trade as a coal-merchant; whether it was disadvantageous to you or advantageous?
As compared with the existing state of things before the Act came into operation, decidedly advantageous.

100. At the present time is there any difference in your trade; has your trade suffered from the expiration of the Act?
Not at all.

101. Is the price of coal affected by the Act having expired?
I apprehend not.

102. Should you see any objection to the re-enactment of it?
Not individually.

103. Do you know anything about the operation of the present voluntary office?
I cannot say anything more than that my trade has not been affected by it either for better or for worse.

104. Do

104. Do you know anything about the state of the coalwhippers themselves; have you any opportunity of knowing it?
No; I cannot speak as to their present condition.

105. Nor as to their condition previously to the expiration of the Act?
I think their condition during the operation of the Act was very materially improved, as compared with their condition before any Act of Parliament passed.

106. But since the expiration of the Act you have no experience of their present condition?
No.

107. Lord *Ravensworth.*] You are not aware that they are in a worse condition?
I am not aware that they are in a worse condition.

108. Lord *Calthorpe.*] Do you know really what their condition is, whether it is better or worse, or the same?
No; I have not made inquiries, and I have had no representations made to me.

109. Lord *Polwarth.*] Did you ascertain whether their condition was improved during the operation of the Act?
Yes; as compared with the time before any Act of Parliament passed.

110. And since the expiration of the Act you do not know whether it has affected their condition or not?
No; only from hearsay; I have not heard anything authentic.

111. You cannot depend upon that hearsay?
No.

112. Lord *Stanley* of Alderley.] Are you aware of any evils which have resulted to the coalowners, to the shipowners, or to the coalwhippers themselves, from the cessation of the Act?
No.

113. Viscount *Dungannon.*] You were not in business before the passing of that Act, I think you stated?
I do not think I was; I think the Act came into operation before I went into the coal trade.

114. *Chairman.*] The coal trade, you think, has not been affected either way by the existence of an Act, or by the present system?
Not the coal-merchants.

115. The price of coal has not been raised or diminished?
I do not think it has anything to do with the price of coals at all.

116. Earl *Vane.*] Does it make any difference to you as a coal-merchant what the cost of whipping is?
Not at the present time.

117. *Chairman.*] Did it ever do so?
I can explain myself. At present I am engaged in putting up machinery to a considerable extent for the purpose of whipping, and of course the payment which I shall receive from the shipowners for delivering the ships will vary according to the rate of wages paid to the coalwhippers.

118. Lord *Polwarth.*] Then will the expense of your unloading be guided by the rate of wages which the coalwhippers are receiving?
Yes; I apprehend that that will be the case.

119. *Chairman.*] Your charge for unloading by machinery will be regulated by the wages which are paid to the coalwhippers where it is not done by machinery?
I believe that is so.

120. That is the agreement?
No, there is no agreement; but I believe that that is the system which prevails at the present time with those who use steam machinery.

T. Charrington, Esq.

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121. Lord *Polwarth.*] Is that machinery extensively used now?
It is becoming more so every day.

122. And it is likely to increase?
It is likely to increase.

123. Can you unload more quickly by it than by means of the whippers?
Yes, ten times as quickly.

124. And at less cost, comparatively?
I cannot say; I have not had experience at present.

125. *Chairman.*] So that if the coalwhippers' wages are lowered, you will receive less as interest on your machinery?
Yes, that is my impression; I have made no agreement at present.

126. Lord *Polwarth.*] Is there any reason why the machinery should not entirely supersede the coalwhipping?
Yes. I do not think it will supersede the coalwhipping entirely, because it is only those who have capital for the erection of steam machinery, and also who have premises adapted, who can use it at all; there always will be, in my opinion, a certain number of vessels discharged by manual labour.

127. And when they are reduced to a very small amount, will they still regulate the rate at which the unloading will be carried on in the same manner?
That is more than I can say.

The Witness is directed to withdraw.

Mr. GEORGE COOMBER is called in, and examined as follows:

Mr. G. Coomber.

128. *Chairman.*] WHAT is your occupation at present?
That of a coalmeter.

129. Will you describe to the Committee what that is?
A coalmeter is a person engaged to deliver cargoes of coals, by weighing them over the side of the ship into the merchants' barges, and rendering an account of such delivery to the coal committee.

130. From whom do you receive the appointment of coalmeter?
We are appointed by a committee of the coal trade, consisting of an equal number of coal-merchants and coal-factors.

131. Perhaps you can tell the Committee what opportunities you have of judging of the work of the coalwhippers?
We are constantly with them, and of course no one can have a better opportunity than we have of seeing the way in which they are employed, and perform their duties.

132. Are you appointed by the year, at a yearly salary?
No; I have been nearly 23 years a coalmeter.

133. Do you know anything about the system by which the coalwhippers engage with owners of vessels; are they by gangs?
By gangs of nine men in each gang.

134. Do you know anything as to the manner in which the engagement of that gang is made?
It depends upon where it is employed from. There are many employed from public-houses, and there are many employed from private individuals; and there are some who are employed from the Coalwhippers' Office. Now the plan adopted at the Coalwhippers' Office is, for the coal-factor to apply to the registrar of the Coal Office, when a gang is required to deliver a ship; but private interest in other cases takes it out of the hands of the Coalwhippers' Office; a publican, for instance, probably is a relative of the shipowner in the north, and is therefore allowed to work the ship. The consequence is, that the poor men are mulcted of a great deal of their earnings by him.

135. Will

135. Will you explain what you mean by their being "mulcted of their earnings"?
They do not get so much as they should do, not all they earn; they are made to drink, or will get no employment.

Mr. G. Coombe
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136. Do the coalowners give to the public-house keeper the money to pay the wages to the men?
No; the shipowner is the man who pays the publican, and then these monies, which are scored up against each of these poor men, are deducted off the pay when the ship is discharged.

137. Earl *Vane*.] Am I to understand you that the shipowner pays the men's wages to a publican?
Yes; they are paid by the captain to what is termed the basket-man, the head man of the gang.

138. *Chairman*.] And he hands them over to the public-house keeper?
The money is taken to the public-house, and there it is divided; of course I cannot say what takes place inside the public-house.

139. Lord *Stanley* of Alderley.] But the money is paid by the shipowner to the head of the gang, namely, the basket-man?
Yes.

140. And it is not paid to the publican?
It is not paid to the publican that I am aware of by the master of the ship, but to the basket-man.

141. *Chairman*.] Have you any opportunity of observing whether the gang which works the ship comes from a public-house, or from the office at present; have you any means of knowing where the gangs are engaged?
No, not till I get on board; when I get on board I know, because there is a material difference between some of the gangs and other gangs, and we feel rather an interest in liking to have a gang with us which is more subject to our control than some of these public-house men are.

142. Then there is a difference; in what way is there a difference?
There is a very material difference. I will give your Lordships an instance: last October I was on board a ship called the "Amelia," Hewison master, from Hartlepool; this vessel worked from a public-house called the "Waterman's Arms," in Wapping Wall, kept by a man of the name of Rose; when I went on board, I found the men were on board before me; there were nine of them (that is the number which a gang consists of), and every man of them was intoxicated; the consequence was, that there could be no control; there could be but little work done; five out of the nine were in a most disgraceful state of intoxication; the others more or less so.

143. That was since the expiration of the Act?
Yes, just after the expiration of it.

144. Lord *Ravensworth*.] Then would you prefer a gang of whippers engaged at the Coal Trade Office for whippers to a gang engaged through the medium of a public-house?
Most decidedly, because the one set of men are sober men, and the others may not be.

145. And the office, as at present established by the coal trade, is adequate to perform its functions, and to make that selection?
Yes; the position in which the present office seems to me to be is, that it gets so small a share of the work.

146. But that is the men's fault, not the fault of the office?
No; private interest takes it away from the office.

147. *Chairman*.] Then you think that there is no way of remedying the evil except by an Act of Parliament to compel men to go to that office?
There is no other way that I know of.

148. Lord *Stanley* of Alderley.] But it is the private interest which you speak of that takes the work away from the office to publicans?
Yes, friendship and relationship.

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149. On the part of whom?
On the part of the shipowners in the North, and the captains and the publicans in Wapping and Shadwell.

150. Do you know any instance in which shipowners in the North have insisted on the gangs being hired from the publicans, rather than from the office?
I do not know instances where the shipowners have done so, because shipowners are gentlemen with whom I have very little to do; but I know that that is the case with masters of ships.

151. You used the words "shipowners"; but, of your own knowledge, you cannot say that you know of any shipowner who required that the men should be engaged from publicans, and not from the office?
I imagine that the master of the ship performs the duty which is entrustd to his charge in a faithful manner; that he is requested to do as he does with regard to engaging the men.

152. You merely infer, that if the master of a ship engages the men at a publican's, he is engaging them by the order of the shipowner, and not of his own will?
Yes.

153. Lord *Polwarth.*] Do you know the fact that the masters of the ships find the men?
When the men are engaged at the Coalwhippers' Office, the masters or the factors are the parties who apply for men to work their ships.

154. Was the condition of those men better during the operation of the Coalwhippers Act than it has been since?
Decidedly better; they were more moral, sober and well-conducted then.

155. It is not quite a year since the Act expired, is it?
No.

156. Has their condition deteriorated during those nine or ten months?
The condition of those employed from public-houses has deteriorated, because if a sober man is employed at a public-house, he will very soon be turned out, for this reason, that it will not answer the purpose of the publican to keep him there.

157. Are there any considerable number now employed from the public-houses?
I think there are a great number employed.

158. What proportion do you suppose, one-third or one-half?
I have no means of knowing.

159. *Chairman.*] Do you keep any account of the number of ships which unload through the means of public-houses, or which unload by other means?
No.

160. Earl *Vane.*] Can you state how many of those drunken public-house gangs which you have spoken of have come under your own experience as a coalmeter?
Since the expration of the Act?

161. Yes?
I have not had many; probably a dozen within the twelvemonth.

162. Lord *Stanley* of Alderley.] There are only a dozen cases since the expiration of the Act which have come under your own knowledge of gangs hired by the publicans?
Not more than that.

163. Have all the other cases of gangs been of men engaged from the office, and not from the publicans?
No. Private individuals work ships, as well as publicans.

164. Can you state how many ships you have been engaged in unloading since that period?
I can hardly say; I should think somewhere about 40.

165. And

165. And out of those 50, not more than 12 have been unloaded by men engaged by publicans?
Probably so.

166. The others have all been men either engaged at the office, or private servants of the different shipowners, who are entitled to unload their coals by that means?
Yes, or by hydraulic power.

167. Lord *Ravensworth.*] As I understand you, the one sole grievance which can be pointed out in the present operations of the coalwhippers' market is the fact that a certain number of men are engaged through the medium of publicans?
Publicans and others.

168. And that through that mode of engagement evils arise such as those which you have described, namely, intoxication, and a portion of the wages being absorbed in drink, instead of the whole being paid to the workmen in money?
Yes.

169. There is no other evil or mischief which you can point out?
Yes; there are other evils belonging to it. There is no sort of control by captain or meter over a drunken man the same as there is over a sober man. Ships are sometimes detained from the want of sober men to work them; if a drunken gang go on board the ship, you can do nothing with them. If they belonged to the office, of course there would be the power at once of removing them, and getting sober men in their place; but not belonging to the office, and not being accountable to any body for their conduct, there is no way of doing so.

170. Hence this mode of employment is the source of all these various evils which flow from that particular grievance?
It is so; from the want of an office from which the men should be always employed.

171. But there is an office at present, and you say that that office is rendered ineffectual by the operation of private interests, which are at variance with the regulations of that office?
Yes, it is so, no doubt.

172. *Chairman.*] When there is an inefficient gang, who is the loser by having an inefficient gang to unload?
I have known instances where there has been bad conduct shown on the part of the men, where a shipowner has had his vessel detained a day longer than her right time through it; therefore in that case the shipowner is the loser. I have also known instances where merchants have lost tide, with their craft having been in want of the coals, they could not get the coals home till the next day, through the intemperance of the men.

173. Lord *Stanley* of Alderley.] But could not the shipowner at all times secure a gang from the office?
Undoubtedly, if he were so disposed.

174. Then if he is detained by a drunken set of men, it is his own fault, seeing that he can always go to the office, and secure a proper gang of men to unload his ship?
Certainly, it is his own fault, because there is the office to go to.

175. Lord *Calthorpe.*] But private interests interfere?
I think so.

176. Earl *Vane.*] You distinctly stated to the Committee, that during your experience there have been only 12 cases of these public-house gangs?
I think so. I speak of the last 12 months, since the expiration of the Act of Parliament.

177. *Chairman.*] That is to say, under your own observation?
Yes.

178. How many coalmeters are there?
There are about 140 or 150 of us.

Mr. G. Coomber.

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179. So that you only speak of your own experience?
Only of my own; and only as regards the last 12 months, because till then the great proportion of the work was done by the Coalwhippers' Office.

180. Lord *Calthorpe*.] Do you find any cases of drunkenness in those instances where the men are employed, not from the office or from the publicans?
No, I have not seen any cases of that sort, only where they have been employed from public-houses. I had a case once, where the basket-man, who ought to be the most sober man of the lot, was drunk. The name of that ship was the "Velatura." This man, on going on board the ship, fell head foremost into the water, and had it not been for our catching him by the legs, it is quite likely he would have been drowned; he was in such a state of intemperance.

181. Was he employed by a publican?
No; he was employed by a man named Regan.

182. Viscount *Sydney*.] He belonged to a private gang?
Yes. In that case, this Regan, the men told me, was paid 7*d*. per ton for the delivery of that ship; also that they only got 6*d*. per ton amongst the nine: independently of this penny per ton, Regan got 7*s*. 6*d*. for the use of the gear to himself; so that he made nearly 2*l*. clear money in that one ship's working.

183. Lord *Stanley* of Alderley.] These men were a gang employed by Regan?
Yes.

184. Is not Regan a coal-merchant, who employs gangs of his own for the purposes of unloading the ships?
No; he is a coalwhipper.

185. Were these gangs of his own, or were they gangs engaged at a public-house?
They were not engaged at a public-house at all that I am aware of; he does not keep a public-house.

186. The gang was one engaged by Regan, whom he employed for that purpose?
Yes.

187. Would not he have been entitled to engage the same men, and upon the same terms, previously to the passing of the Act, and during the existence of the Act?
Under the operation of the Act, the master was in the first instance obliged to apply at the office for a gang of men. But should the men refuse the price offered, then a discharge was given the master, entitling him to engage others to deliver his vessel: he, however, was not allowed to pay such other men at a higher rate than had been previously tendered at the office.

188. During the existence of the Act was not it permitted to any person to unload coals by his own gangs or private servants of his own?
Yes, it was to merchants by *bonâ fide* gangs, and captains by the sailors.

189. Then the existence of the Act would not have saved you from the evil which you are complaining of in this instance; would the existence of the Act have prevented the recurrence of this evil which you are now complaining of in the case of Regan?
I think so.

190. Will you explain how?
I think that if the ships were all worked by the office, we should have efficient control over those men, and that no case of the sort would ever occur.

191. But I think you have already stated that it would have been in the power of Regan to employ these men without going to the office even during the existence of the Act?
Yes, provided the office men refused the price offered them. These were no office men at all; they had no connexion with the office; indeed he was opposed to the office; he was working all he could in opposition to the office, for his own individual gain.

192. But under the provisions of the Act, which expired last year, Regan would have been equally entitled to employ these men, and would not have been compelled to go to the office to procure a gang?

The captain would have been compelled to go there and get a discharge before Regan's men could be employed.

193. Viscount *Sydney*.] Therefore he might equally have employed these men, notwithstanding the fact of the Act being in operation?
Yes, he did so, in opposition to the Act; or rather the Act allowed him to do so, after the office had given the captain a discharge.

194. Lord *Stanley* of Alderley.] Then the existence of the Act would not have prevented this evil of which you are now complaining?
Yes, it would, unless work had been refused by the office.

195. That is to say, unless another Act was passed even more stringent than that which expired last year?
I think so; a more stringent measure is doubtless required.

196. *Chairman*.] In the old Act there was a clause under which a person might employ his own servants?
Yes.

197. And parties engaged other people under the plea of their being their own servants?
Yes.

198. They made a contract with any men for a day, under the plea that those people were their own servants?
I suppose so; I can hardly say; there is no doubt that a vast quantity of coals were delivered under the impression that the men who were delivering them were the *bonâ fide* servants of the persons, but who really were not so at all.

199. The Act provided that a *bonâ fide* servant might be employed in unloading coals?
Yes, or the ship's company.

200. But that Act was defeated by private parties, during the operation of the Act, coming forward and professing that these men engaged by the day were *bonâ fide* servants?
Exactly so.

201. So that the provision of the Act was evaded?
I think so.

202. And was a defect in the Act?
Yes.

203. Lord *Stanley* of Alderley.] In what manner do you consider that to have been an evasion of the Act; were not there specific powers in that Act permitting all persons to unload ships by their own agents, or persons whom they employed?
Yes.

204. Then how can you call it an evasion of the Act?
It seems to me to be so; persons in that case would not be the *bonâ fide* servants of the shipowner or the coal-merchant, but would be men employed by some other persons; therefore, I should imagine that they were not *bonâ fide* servants at all.

205. In the case which you have spoken of, they were privately engaged, as I understand, by Regan, strictly according to the provisions of the Act, which entitled him to unload vessels by servants so engaged?
Yes, they were servants of his decidedly, inasmuch as I believe he gave them constant employment delivering coals for different persons.

206. Lord *Calthorpe*.] When did you say this case occurred?
Last October.

207. That was since the expiration of the Act?
Yes.

208. *Chairman*.] Where did the ship come from?
From Sunderland; the "Velatura."

209. Do you know the names of any other ships?

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I have taken no account of any other ships, and I should not have taken an account of this one, only that it seemed to me to be an extreme case.

210. You cannot furnish the Committee with the names of any other ships?
I think not. I have seen other irregularities occur, but I could not speak as to the name of the ship, nor yet as to when they occurred.

211. Did you ever call at a public-house, or at the office, to know whether a gang was coming before you went to a ship?
Does your Lordship mean previously to the Act of Parliament being obtained for the establishment of a coalwhippers' office, or subsequently to that time?

212. Both?
I have called many times. I have had occasion to wait at a public-house door upon many occasions, and upon many occasions the men were nearly intoxicated before I got there, and I used to have considerable difficulty in getting them out; and when they were on board, they were good for nothing. This state of things existed before the establishment of the Coalwhippers' Office.

213. Were you ever detained during the time of the Act being in operation?
Not by an office gang; I never remember an instance of it: I can speak positively upon that point.

214. Since the expiration of the Act have you ever been detained by a gang?
I have never called at a public-house since.

215. Lord *Ravensworth.*] Do you consider that the amount of work done through public-houses is increasing?
I think it is.

216. Can you speak of your own knowledge that it is increasing?
I cannot say for a certainty; but it is my opinion that it is increasing.

217. Why is it your opinion?
I know houses where they now work ships, where they did not do so formerly; that I think is a fair reason for supposing that the work is increasing on the part of publicans.

218. Of your own knowledge, you do not know the proportion of ships which have been cleared by men employed from the office, and the proportion of those cleared by men employed through publicans, within a certain time?
No, I can hardly form an opinion; but I should be disposed to say the same as I did just now, that perhaps about one-fourth of the work is done by publicans.

219. Earl *Vane.*] What is the proportion between those vessels which are whipped by publican gangs, and those which are whipped by private gangs?
The private gangs I think have the advantage in that respect.

220. What is the proportion of difference?
I can hardly form an idea, but I certainly think that the private gangs do more work than the public-house gangs do. The private gangs include the gangs employed by gas companies.

221. Does the same intoxication which you speak of exist in the private gangs which exists in the public-house gangs?
No; I have not found it exist to any extent.

222. *Chairman.*] Do gas companies employ private gangs as their own servants?
I do not know; you may call them private gangs, or you may call them their own servants; they are, perhaps, strictly speaking, what the Act terms, *bonâ fide* servants.

223. Whom do they employ to engage these gangs?
In the case of gas companies the lighterman tells the master of the ship, when the ship arrives in the pool, that he need not trouble himself about getting men; that men will be sent on board for him as soon as the company is ready to commence the ship's delivery.

224. And

224. And these companies send men?
Yes.

225. Lord *Stanley* of Alderley.] But these companies employed their own servants to unload the ships during the operation of the Act, as well as since, did they not?
Some of them did.

226. *Chairman.*] Were there any convictions which came to your knowledge for a breach of the Act during the operation of the Act by private parties employing men?
I cannot speak of my own knowledge, but I have heard of those things: I know that cases have been brought before the Thames Police Magistrates; but whether convictions took place or not, I am not able to say. I remember one case in which a gas company's lighterman was summoned before the Thames Police Magistrate; but what became of that case, I do not remember; I believe he was fined.

227. Lord *Calthorpe.*] Are we to understand from your observation that drunkenness has existed since the expiration of the Act in a greater degree than it existed before?
Before the first Act was obtained, drunkenness was tenfold what it is now; but during the operation of the Act, drunkenness was altogether unknown. I speak, of course, of my own experience; I saw nothing of it; and since its expiration, it begins to show its head again.

228. *Chairman.*] Do you visit any of the coalwhippers in that district?
No.

229. Then your only knowledge is from those who come on board?
Exactly so.

230. Lord *Ravensworth.*] You spoke of a house called the "Waterman's Arms"; did you ever know that house discharge a cargo from a ship under the late Act?
That is a question which I cannot answer; for I do not know whether last October was under the Act, or whether it was not. It was last October that the case to which I refer occurred, and, if I remember rightly, this was immediately after the expiration of the Act; I think this was one of the first houses which began working coals.

231. You are not aware, of your own knowledge, that that house worked coals before the expiration of the Act in any instances?
I am not.

232. *Chairman.*] Have you any means of knowing whether the captains of these vessels were opposed to the operation of the Coalwhippers Act?
I think that a good many of them had reason to be opposed to the operation of the Coalwhippers Act. If report ever spoke truly, they were well rewarded for taking their ships to the public-houses, in the shape of presents and accommodation for their wives and families during the summer season; all those sort of things doubtless existed to a considerable extent prior to the establishment of the Coalwhippers' Office.

233. That is only report; have you yourself ever had any conversation with any captains of vessels while unloading these vessels during the operation of the Act wherein they expressed to you their dissatisfaction at its provisions?
They all were satisfied with the way in which the working went; but I do not think they were satisfied in the other sense, because they did not get what there is no doubt they got before; there was better regularity; and better control over the men, under the Act, than there ever was before, or than there is at the present time.

234. Lord *Calthorpe.*] During the operation of the Act, did you ever hear any complaints made by the shipowners or captains of any difficulty in procuring coalwhippers?
No.

235. And efficient men as well?
There certainly is a difference in men; some men are not so able to work as others are.

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236. But you did not hear of any difficulty in procuring coalwhippers to work the ships?

No; I never found those with whom I worked at all backward, or unwilling, or incapable of doing the work; certainly, there were some men, sometime since, in the Coalwhippers' Office, old men, who were not so well able to work as more robust people were.

237. Lord *Wynford.*] Was there any complaint against the office for sending incapable men amongst these gangs?

There certainly have been two or three different occasions upon which I have seen an old man paired off with, we will say, a young man, and I have heard the young man complain that he has been doing more than his fair share of the work.

238. Were there any complaints during the existence of the Act against the office for sending incompetent gangs on board these ships to deliver the coals?

Not so far as I am aware; I never knew of one. There were some old gangs, who, of course, could not work so well, and were therefore sent on board small sized ships.

239. *Chairman.*] Was there any difficulty in getting gangs?

No, there was always a surplus.

240. And is that the case now also?

Yes, unfortunately.

241. Lord *Stanley* of Alderley.] There is a surplus at the office?

Yes, there is a surplus of labour. I can give a case which occurred to me last week: one coalwhipper belonging to the office, whilst I was sitting down in my house having my tea, came and begged for a crust of bread, and I objected to give him any, because a certain party to whom I had given some the day before had thrown the victuals into the street. This man called me by name, and told me that he had been standing at the coal office the whole day, and had not had a mouthful to eat since the previous day, and that God only knew where he could get some from; he was starving.

242. That might have happened under the old office?

Yes; there is a vast amount of distress among them.

243. Both under the old and the new office there has never been a difficulty in getting men, if required, to unload a ship?

No, I never heard of there being any difficulty.

244. On the contrary, there have been more men than there has been work to do?

Yes, as far as I ever heard.

245. *Chairman.*] Can you give an opinion to the Committee as to the cause of such a number of men not having work to do; do you think that it is from the machinery coming into work, or from the competition of the public-house keepers?

It may arise from a variety of causes; there is no doubt that machinery displaces a vast amount of labour in the east end of London; the publicans and private individuals also draw the work from the office; machinery takes another lot; so that it leaves those who belong to the office in a very hopeless condition.

246. Do you think that as respects those men belonging to the office, the competition of private parties and public-house keepers reduces the employment which those in the office would otherwise have?

No question of it.

247. Lord *Polwarth.*] Preference is given by the shipowners, some to the public-houses and to private individuals rather than to the office?

It seems so to me.

248. Is it more expensive to get men from the office than it is from those parties?

I think not; it is not any more expensive that I am aware of; they are working for almost no money at all, both at the office and out of it; they are working as low as 6 *d.* per ton, which is a starvation price, either in or out of the office.

249. They

249. They are working as cheaply from the office as they are from other places?
Yes, equally so: and I think that, with regard to heavy days' works, they are working more cheaply at the office than they are out of it.

250. Do you imagine that the men who do the work from the office get the whole of their wages, whatever they contract for?
Decidedly, except that there is something stopped to pay the office expenses; I think it is a farthing in the shilling.

251. And those who are engaged from other sources, such as public-houses, you imagine do not get the whole?
There can be no doubt of that at all.

252. *Chairman.*] When are the wages paid at the office?
The wages are paid at the office, I think, as soon as the ship is cleared, or within a day of its being cleared.

253. When are the wages paid at the public-house?
They are paid, I imagine, as soon as the job is completed, whatever balance there may be to come to the men. But I have heard of their being kept some hours out of their money after the vessel has been cleared: during this time they were drinking.

254. Lord *Ravensworth.*] In fact, you are not prepared to make any complaint regarding the regulations of the office at present?
None whatever.

255. But you say that the regulations of the office are wholly inefficient, because private interests intervene, and that the men who are engaged through the medium of public-houses are so engaged on account of these private interests?
Yes, that seems to me to be the case: there seems to me to be no fault connected with the office. I do not know the internal arrangements of it; the office men I always find very willing, industrious and sober men, and men who are entirely obedient to the wishes of all who have any sort of control over them.

256. *Chairman.*] Would it be an advantage for those office men if the public-house system was put an end to?
Most assuredly, because in that case I imagine they would get all that work.

257. You think, then, that any measure which should compel parties to go to the office would be an advantage?
That seems to me to be the only remedy which can be suggested.

258. Lord *Ravensworth.*] That is positively to prohibit by law the employment of men through the medium of public-houses?
I think so.

259. And even then evasions probably might be made?
It might be so: still it would be better that any one should evade an Act than that the public-house keeper should do so, because it is a most demoralising thing, and in his case the worst character is the best man, or rather he gets the best employment, he must be kept going.

260. *Chairman.*] Do the public-house keepers supply beer to the men while they are working?
Yes, if you can call it beer: it is something in the shape of it. I have seen beer sucked through handkerchiefs; it was such that no men could drink.

261. What do the office men do for beer?
They do without, except occasionally, when they procure it from the beer boat alongside the ship.

262. Are the others obliged to take this bad beer, do you suppose?
If they did not take it, there would be no employment for them in public-houses.

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263. So that they are obliged to take this beer from the public-house in order to insure their employment?

Exactly so; the very worst of beer they are obliged to take.

264. Lord *Calthorpe.*] Have you any idea how many public-houses there are engaged in this business?

I cannot form an idea.

265. Lord *Polwarth.*] Do you know anything of a system at the public-houses of getting the men into debt in the first instance, and whether they take any means to keep them there, to a certain degree, as prisioners?

I can hardly say, but I think it is thus: I think that a man goes and applies for a ship, and he gets a promise that he shall have one. As soon as he gets this promise, he has to begin drink; if he does not, there will be some one else who will begin before him, then he will have no ship at all; that seems to be the way; he has therefore to keep on drinking, both morning and night, and at all other times when he gets an opportunity of doing so, to make his employment suit the interest of the publican.

266. When does he pay for the drink, when he gets the ship?

He does not pay for it at all; it is deducted out of his money.

267. It is paid when he gets the money for the unloading of the ship?

Exactly so.

268. Is it the basket-man who makes that sort of arrangement, or is it the individual coalwhipper generally?

There is a basket-man employed, and this basket-man probably induces, in some cases, the publican to employ others of his acquaintances; I do not know how that may be; I cannot speak as to the inside of a public-house.

269. *Chairman.*] Can you tell why there are parties opposed to the operation of the Act; can you give any reason why parties connected with the trade should be opposed to it?

I think that that is answered in one word; I should think that self-interest is the cause why people are opposed to it. I never knew people cry out against the Coalwhippers' Office till it was discovered that they could make something out of the earnings of the men by opposing it.

270. In what way is their self-interest affected?

If a person employs a gang of men, I imagine he gets something by employing those men more than he would get by employing a gang from the office, or else why should he be troubled with them?

271. Should not you think that the getting a good set of efficient men must be a great advantage to a coalowner?

There is no doubt it is a great advantage, and I do not see myself why the men from the office should not be as good as the men who do not belong to the office. It is true that there are some men much better for work than other men, and perhaps some of these gentlemen who are interested in having people of their own, select the best from a good many. I do not know.

272. Do you think that the establishment of the office by Act of Parliament had the effect of raising the price which they paid for whipping coal?

The establishment of that office by Act of Parliament I should think had rather a contrary effect, for this reason: when masters of ships saw that labour was abundant, they would reduce the price for the discharge of their ships; men's necessities made them take that small amount for the delivery of ships. Upon other occasions, when a considerable fleet was here, it then became the turn of the men to take advantage of the shipowners. The consequence was, that, instead of working perhaps one week at 6*d.* per ton (when the shipowner had the men in his power), the men would have 11*d.* or 1*s.* per ton when labour was in greater demand. So that I think, if you average the wages, the wages before the establishment of the office were better on the whole than they were during its operation.

273. Are you aware that the shipowners say that they could reduce the price still further if they had not any Act of Parliament to enforce an office?

No;

No; I am not aware of that; I never heard of anything of the sort; I should think it impossible, because I do not think that the men can live at it even now.

274. Lord *Ravensworth.*] Wages in this case depend upon supply and demand, as in all other cases?
True; but men being almost starving now, I cannot see how it is possible for the work to be performed at a lower price.

275. Why should there be a difference in the wages of coal?
Men, of course, would not work if they could not get food by their labour.

276. And if labour is required, you are not to compel the employer to give more than he can obtain it for in the market?
True; but I do not know a case in which the Coalwhippers' Office was ever the cause of the men getting an increased amount of money for their labour; I think it is the reverse.

277. Lord *Polwarth.*] You approve of the office, and of the working of the office?
Yes; being, as I believe, for the good of all parties.

278. Lord *Ravensworth.*] And you approve of the present office, and the working of the present office?
Yes; any office rather than going to public-houses for employment.

279. *Chairman.*] Then you would make it compulsory to go to an office to put an end to the public-house system?
I think so; there seems to me to be no other remedy.

280. If it was compulsory, do you think that it would raise the price of wages?
I think not at all; for the Coalwhippers' Office has always been opposed to increasing the price.

281. Do you know any instance where they have reduced the price?
Yes; I know a case which occurred about twelve months since, where, in the delivery of screw colliers, they reduced it to 6 *d.* a ton when a certain quantity was done in a day.

282. Voluntarily?
Yes; I think I am saying right when I say voluntarily.

283. Lord *Stanley* of Alderley.] Has there been any reduction in the price since the cessation of the last Act?
A very great reduction: I think, if I remember rightly, that previously to the expiration of the Act, they were getting 8 *d.* and 7½ *d.*; now they are only getting 7 *d.* and 6½ *d.*, and even 6 *d.* per ton.

284. Then the coalowners and shipowners are getting their coals whipped now at a less rate than thay did during the existence of the Act?
Decidedly.

285. To that extent, at least, it has been an advantage to the shipowner to have had the whole of the market to go to, instead of being compelled to go to one particular office?
I cannot say that the office would have made any difference; if it had been in its full vigour, I think it would not have made any difference at all.

286. But the fact is, that during the last year the coalowner has whipped his coal at a lower rate than he whipped it at during the existence of the office?
Yes.

287. Whatever advantage that may be, he has had the advantage of that lower rate?
Yes.

288. *Chairman.*] Has the price of coals to the public been lowered accordingly?

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I should imagine that to be so trifling a sum in the value of the coal that it would make no difference to the buyer or consumer.

289. What difference would it make in a cargo of coals to the owner of the ship-load of coals?
Probably 2 *l.*; that of course would depend upon the size of the vessel.

290. Lord *Calthorpe.*] To what do you attribute the reduction of wages?
Competition and the want of employment generally; there is a vast amount of distress existing in the east of London.

291. Lord *Stanley* of Alderley.] Are wages generally lower now than they were two years ago?
I think employment is much more scarce than it was. I can hardly speak as to wages.

292. Earl of *Durham.*] You have stated that in one case the office reduced the wages?
Yes, I think I am right in saying so.

293. Was that the old office, or the new one?
It was the office under the last Act of Parliament. I should not like to speak positively as to whether it was previous to the expiration of the Act or not, but it was about that time; about twelvemonths since. They undertook to work the screw colliers for 6 *d.* per ton, when 119 tons per day were done.

The Witness is directed to withdraw.

Mr. WILLIAM FRYER is called in, and examined as follows:

Mr. W. Fryer.

294. *Chairman.*] WHAT is your occupation?
A coalmeter.

295. How long have you been so?
About 20 years.

296. You were a coalmeter before the Coalwhippers Act came into operation?
Yes.

297. Can you speak as to the state of the men just before that time; from your position, you are able to speak as to the state of the men?
Yes. Having been acquainted with the working of the coal trade previously to the establishment of an office, and while the office existed, and since then, from my observations, I am enabled to say something concerning them, I must say that the working of the coal trade previously to the opening of the office was conducted, in my opinion, in a most immoral manner. I will give the Committee one case which took place on board a ship of which I was meter, which shows that without an Act of Parliament there can be no control over the men; that they actually do just as they like. This was a case in which I was employed on board a ship: instead of the men coming on board at the usual time in the morning to work the ship, none of them came on board till about 12 o'clock; then four or five of the men came in a beastly state of intoxication. Of course we could not carry on the work with the five men, allowing that they had been sober.

298. Lord *Ravensworth.*] When did this occur?
This was previously to the passing of the Act, under the old system.

299. *Chairman.*] We do not want to go into that; we want to know whether since the Act has ceased, you know of any case of men being employed from the public-houses in any ships where you have acted as meter?
Yes; I have had some, I cannot say the exact number, but I have had some who have worked from the public-houses, and they have brought their bottle of beer with them, and they have not only had their one bottle, but their two bottles,

bottles, and those men have so indulged themselves in drinking that they have not been able to do the work which they ought to have done. About three weeks ago there was a ship that I was on board of.

300. What was the name of the ship?
I cannot tell you; for, not getting the notice till yesterday, I have not had an opportunity of referring to my books.

301. But could you give the name of the ship?
Yes.

302. Could you give from your books the names of all ships which have been worked from public-houses, and from the office, and by private parties?
No, I cannot make that distinction; we do not put down in our books who work the ships, whether public-houses or not. In the case that I am speaking of, the gang was worked by Mr. Regan, called a middleman.

303. What is Mr. Regan?
He calls himself an agent for the working of the colliers; he advertises to work them at 6*d.* a ton. He endeavours to see as many captains as possible, and presents them with his card, and solicits their favour to work the ships at 6*d.* a ton. I have been on board some ships that have been agreed upon by the factors or parties at the office to be worked from the model office, the Coalwhippers' Office, as now established. The men have actually gone on board the ship as previously agreed upon by the factors, and the captain has refused those men to work the ship.

304. He has refused the office men?
Yes; he has refused the office men to work the ship; he has sent them on shore, and has then gone and employed either the public-house men or Mr. Regan's men.

305. Is this since the expiration of the Act or before?
Since the expiration of the Act.

306. Lord *Stanley* of Alderley.] Would not Mr. Regan have been entitled to work the colliers with these men during the existence of the Act, as well as at the present time?
I should say not.

307. Why not?
Because I think his men would not be considered as *bonâ fide* servants; he employed them merely as he wanted them. I believe that, in order to constitute, according to the Act of Parliament, *bonâ fide* servants, they must be in the constant pay of the master. Now, Mr. Regan, if I understand rightly, employs those men as he wants them; it is possible that he may employ them for two or three days and discharge them, and not employ them again for other two or three days; so that, according to the Act of Parliament, they cannot be strictly considered as *bonâ fide* servants. Therefore, under the late Act of Parliament, Mr. Regan could not have worked a ship.

308. Did not Mr. Regan ever unload ships, during the existence of the Act, by his own servants?
That was when they were refused at the office. I believe it was necessary, according to the Act of Parliament, that they should go to the office then established, and offer a certain price; if the office refused to take that price, then the owner or captain of the ship was at liberty to employ whom he liked, but he must at first go to the office, offer them a price, and if they refused to take the price, then in that case he could employ Regan, or anybody else.

309. Was Regan in the habit of unloading ships by gangs, who were his own servants, during the existence of the Act, or has he only done it since the Act has ceased to exist?
To the best of my recollection, I am almost certain that he did it while the Act was in existence.

310. Are there not several other shippers of coals who do the same?
There are.

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311. Is there not a gentleman of the name of Cory, who employs very largely gangs of men who are his own servants?

Mr. Cory being a coal-merchant, employs his own *bonâ fide* servants.

312. *Chairman.*] Mr. Cory is a coal-merchant?

Yes, and he employs his own servants; the law allowed him to do so, they being his *bonâ fide* servants.

313. Lord *Stanley* of Alderley.] But, in point of fact, I think you say that Regan also did unload ships with his own servants previously to the cessation of the Act?

Only when the office refused, in consequence of the low figure offered. I have known instances of captains going to that office, and offering 4 ½ *d.* to work the ship; of course the office could not take so small a sum. I have no doubt the sum was offered for the purpose of evading employing men from the office. There was no possibility exactly of knowing what the captain did pay.

314. Has this practice of Regan's been a practice which has only existed since the cessation of the Act, or did that practice exist previously during the existence of the Act?

Regan has worked those ships which had first applied to the office, and the office had refused to take them at the price.

315. Do you think that Regan worked no ships with his own servants, except in cases where the people at the office refused to take the wages offered?

He had no right to do so by law.

316. Of your own knowledge, did he do so or not?

I am not aware that he did.

317. *Chairman.*] If he did, he evaded the *bonâ fide* provisions of the Act?

Yes.

318. Lord *Polwarth.*] You were proceeding to tell us the case of a master of a ship who refused the men that were sent, and went somewhere else to get the men?

Yes.

319. What was that case?

The captain of the ship told me himself that the factor had told him that he expected that he would work the ship with the office men. He said, "The ship is chartered to work from the Model Office." This is a conversation which took place between the captain and myself. He said, "I told the factor that he had nothing whatever to do with paying for the delivery of the coals; that I and the owner had to do that, and that therefore I should get whom I liked to work the coal, and that I was not going to be told by the factor or any one else to do it at the office or anywhere else; that I should give the working of the ship to whomever I thought fit." I believe the person who worked the ship was Mr. Regan. I am not positive that he did it, but it was not from the office. There was an agreement with the factor that the ship should be worked from the office, but the master refused. What reasons he had for doing so I am not prepared to say.

320. *Chairman.*] So that, although the coalowner wished to work the ship from the office, the captain evaded that agreement?

The captain refused to allow the office men to work.

321. Lord *Polwarth.*] Was it a public-house-keeper that he engaged the men from?

I cannot say exactly. I am quite certain that the office men were not allowed to work; that the ship was worked from some other quarter than from the office.

322. *Chairman.*] Do you think that that could have happened if the Act had been in existence?

No; because the captain must have gone there. Of course the captains have their instructions from their owners in most cases.

323. Lord *Stanley* of Alderley.] But in this case which you are mentioning, I think the captain disobeyed the orders of his owner?
Yes.

324. *Chairman.*] He could not have done it if the Act had been in operation?
Not without violating the Act. Very few ships went from the office except those worked by *bonâ fide* servants. I have had the opinion of the gentlemen, and very few would have the face to go and offer the low price which has been offered. I have had conversation with captains and others, and I have had their opinion as to how they liked the office which has now expired; they invariably said that they thought it an excellent thing for the coal trade; that there was always something like a settled price; that they pretty well knew what their expenses would be; they knew what would be the expense of delivery and the different expenses, and therefore they could calculate what their expenses would be.

325. But there are parties now who object to the operation of that Act?
As far as regards the captains, I am informed that they think that they derive some benefit from working from the office.

326. Lord *Stanley* of Alderley.] What benefit do you suppose that the coal-owner or the shipowner derives from it?
The difference may be about 1 *d.* in the ton, which, according to the size of the ship, would amount to from 30 *s.* to 2 *l.* 5 *s.* I think it must be a very large ship to exceed that. I think that that is the only benefit which the coal-owner would derive.

327. The benefit which the coalowner and the shipowner derive from the present system, in your opinion, is that they will get their coals unloaded cheaper than before?
Yes; about 1 *d.* a ton cheaper.

328. *Chairman.*] And the value of that is about how much upon the ship-load of coals?
It is 250 to 400 tons; I think the freight is now about 7 *s.* to 8 *s.* a ton; the average is 300 tons, and it would be about 7 *s.* or 8 *s.* per ton.

329. Do you think that since the expiration of the Act the condition of the coalwhippers has been worse than it was during the operation of the Act?
Judging from appearances, I am certain of it.

330. What does that arise from; from the reduction of wages?
It appears to me that it is from the few ships which work from the office.

331. Lord *Ravensworth.*] Does it arise from diminished employment generally?
No; it is caused, I think, by taking the ships from the office, and dividing them amongst so many different men.

332. Lord *Polwarth.*] If they get the same wages, why should the taking the work from the office deteriorate the condition of the men, unless their wages, are applied to other purposes than the men's pockets?
Those men who are employed from the office, when they have done their labour, get the amount of money for which they have worked; they have the whole of it at their disposal; and allowing that the office men work at the same price as the public-house men, still they are gaining considerably more wages, because they have all that they earn.

333. What happens to the men who are engaged from the public-houses with respect to their wages; do they get them, or not?
It is well known that the public-house is open for the sale of beer and spirits, and that those public-houses from which the ships generally work do very little other business but from the coalwhippers; therefore it is quite reasonable to infer that the house must be kept up by them. At most of those houses from which the coalwhippers work, the articles which they sell are of such a bad nature, that very few persons but the coalwhippers themselves deal with those houses.

334. Lord *Calthorpe.*] Do you recollect, during the operation of the Act, whether there were any complaints of the difficulty of procuring men to unload the ships, or of the inefficiency of the men?

Mr. W. Fryer.

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I am not aware of any instances, with the exception of a few cases in the docks. There the Committee will understand that they deliver from one ship into another; perhaps the ship into which they deliver will be a very heavy large ship, and the men will have very high to jump in order to get up the baskets. In fact it is a labour which is too much for what is called manual labour. I am not aware of there being any objection of that sort, except in these cases; but this work can be done by what we call the winches now, for the office provide themselves with these winches; and therefore there would be no difficulty in that way.

335. I have understood that complaints were made during the operation of the Act that there were difficulties in procuring efficient men to unload the ship; is that the case?

There has never been a case coming under my own observation.

336. *Chairman.*] Then you are decidedly of opinion that there are many ships at present which are unloaded from public-houses?

I am certain of it.

337. I suppose you have no means of knowing to what extent?

No; we have no means of knowing that.

338. Of those coming under your observation, can you tell how many there have been?

I cannot say with anything like exactness, not having taken particular notice of what ships worked from the office and what did not. The general idea which I have is that there are a great many, but the exact quantity I cannot state.

339. You can always speak with certainty of any particular gang?

Yes; in fact I make it my business to ask the question when I go on board, "Do you come from the office?—No." I generally put the question.

340. Are there any means by which the Committee could ascertain the number which work from the office and the number which work from public-houses?

Yes, I believe it is possible to know the exact quantity. There are a certain number of ships sold at the market. The quantity is known, and if we could ascertain the amount worked at the office, of course the remainder would be out of it.

341. Are there any means of ascertaining the distinction between those ships worked from public-houses and those worked by private parties?

I cannot tell that; but it is not impossible to ascertain it.

The Witness is directed to withdraw.

JOHN FORSTER, Esquire, is called in, and examined as follows:

J. Forster, Esq.

342. Lord *Ravensworth.*] WILL you state what your occupation is?

I am a merchant and coalowner, and I am also chairman of the present Coalwhippers' Office.

343. Lord *Stanley* of Alderley.] Will you be good enough to state to the Committee what took place last year when the coalowners of the North made a representation to the Government of the inconveniences which were experienced from the existence of the office for the engaging of coalwhippers, under the Act which expired in that year, and the engagement which was entered into with the Government, and with the House of Commons, for the purpose of establishing an office at which they might be engaged for the future?

Your Lordship will recollect that there were two deputations, comprising I think all the leading coalowners and their representatives, to the Board of Trade against the Act, alleging that the cost of discharging coals was enormously raised by it, and finally offering, if the Act were allowed to drop, to establish an office at which those who required these men should be able to engage them without any occasion to resort to public-houses.

344. Will

344. Will you state to the Committee the objections which were entertained by the coalowners of the North to the existing office under the Act?
That the cost of whipping was raised by the system under which the existing office was made a house of call, I might almost say a place of relief, for any unemployed labourers who chose to go there and put down their names were entitled to employment under the Act in turn; and it appeared to be the principle of the Commissioners, and the operation of the system, to establish a rate of wages, not that at which men would work continuously from day to day in discharging coals, but at which the men who were so collected could live on the occasional employment the office could afford them.

345. Had you any reason to complain of the inefficiency of some of the men who were sent, from the office mixing up infirm and able men; did you find that the gangs were not so efficient as could be obtained elsewhere?
Such complaints were made; I am not a coal-merchant; I had no opportunity of personally observing the matter.

346. Lord *Calthorpe.*] By whom were the complaints made?
By the shipowners.

347. Lord *Stanley* of Alderley.] What was the engagement entered into by the coalowners with the House of Commons, upon their agreeing not to continue the Act of last year?
It was committed to writing.

348. They engaged to establish an office at which men should be hired?
Yes.

349. *Chairman.*] Is that the agreement (*handing a paper to the Witness*)?
That is the agreement.

The same is delivered in, and is as follows:

Coal Exchange, 18 June 1856.

THE undermentioned, being coalowners, shipowners, coal-merchants, and coal-factors residing in London, Northumberland, and Durham, have now the honour to submit to the Board of Trade the following statement of the measures they propose to take for establishing an office for the registration, regulation, and hire of coalwhippers.

They propose to select from their number a committee of seven or more, to superintend the office, to engage convenient premises and clerks, and to settle the rules under which the business shall be conducted.

The rules shall be agreed upon after consultation with the coalwhippers, who will be invited to depute members of their body to consult with the committee on the subject. As far as found practicable the rules of the existing Coalwhippers' Office will be adopted, and alterations introduced as experience may indicate them to be improvements.

Deferring the preparation of the rules, the committee will, however, at once point out the following as, in their opinion, desirable changes in the existing rules.

That no man, not already on the present register, known to be of bad character, shall be registered by the office; and that any man may be struck off the register for dishonesty or misconduct, disqualifying him, in the opinion of the committee, for employment.

That, instead of the present mode of forming the gangs or working parties, the men shall be invited to present themselves in gangs, according as they may find it convenient and advantageous to combine for the purpose; the basketmen or foremen, appointed as at present by the office, being held responsible for the fitness for labour of the men in their gangs. The practice of the present office, which the undermentioned think objectionable, is, to form each gang of so many from three classes, into which they divide the body of coalwhippers, of different degrees of efficiency, for the work. The undermentioned think that the interests of the public, and of the men themselves, would be consulted by their being allowed to select their own associates in labour.

Wages shall in no case be paid at a public-house, but either on board the ship discharged or at the office; the deduction from wages for the support of the office not to exceed one farthing in the shilling, unless a larger deduction shall hereafter be agreed upon by the men for the creation of a benevolent fund.

The undermentioned annex copies of resolutions (No. 1 and 2), passed by the committee of the coal trade of Northumberland and Durham, containing the authority on which their names are appended to this memorial.

These resolutions contain, it will be seen, a distinct undertaking, on the part of the whole trade, to support the proposed office, and to furnish funds necessary for its establishment.

They refer to a resolution from the Shipowners' Society of Sunderland, already in the office of the Board of Trade, pledging themselves to support the office, and to discourage the hiring of men at public-houses.

J. Forster, Esq.

13th July 1857.

This society will be represented on the committee to be formed.

The undermentioned do not doubt the success of the office they undertake to establish, supported as it will be by the funds and influence of the coal trade. They think there is no reason to doubt that the coalwhippers will, when the question of the Bill now before Parliament is disposed of, cordially lend their aid to the new office, which will be more economically conducted than the present, that is to say, at less charge to the men than the present office would, if continued, have to make; and which will, it is hoped, arrest the rapid decline of employment proved by a recent return to be going on.

The undermentioned annex a copy of a letter (No. 3) from the coalwhippers, the result of a meeting held by them on this subject, and respectfully leave it the Board of Trade to determine if it contains any reasons of weight against the proposed office.

The Meters' Committee (which it was mentioned at the interview with the President and Vice-president of the Board of Trade, with which some of the undermentioned were honoured, would probably undertake the duty of managing the proposed office), after some meetings on the subject, finally declined the task. Copies of the resolution of a sub-committee (No. 4), appointed to consider the subject, and of their report (No. 5), are annexed.

They were not adopted by the general committee, which was equally divided on the subject.

Hugh Taylor, Chairman of the Coal Trade,
Robert Anderson, Agent of the Marchioness of Londonderry,
Henry Morton, Agent of the Earl of Durham,
Nicholas Wood,
Mathew Forster,
Thomas John Taylor,
D. Jonassohn,
James Morrison,
R. P. Philipson,
Thomas Wood,
William Anderson,
John Forster,
} Coalowners of Northumberland and Durham.

J. T. Alcock, Chairman of the Shipowners' Society of Sunderland.

J. T. Wawn, Chairman of the Shipowners' Society of Shields.

William Milnes,
George Smith,
Nicholas Wood, jun.,
William Page,
Thomas Williams,
} Coal Factors.

Peter Davey,
William Cory,
William Hinton,
} Coal Merchants.

(No. 1.)

General Committee, 14 June 1856.

Henry Morton, Esq., in the Chair.

The letters of the Hon. H. G. Liddell, M.P., and of John Forster, Esq., M.P., relative to the establishment in London of a Coalwhippers' Office, to be partly assisted and controlled by the coal trade, having been read;

It was *Resolved*,—

1. That in the opinion of this meeting, the Coalwhippers Act is objectionable in principle, and ought not, under any circumstances, to receive the sanction of the Legislature.

2. That the coalowners are prepared to give their support to the establishment of an office, which would efficiently and economically conduct the business of the coalwhippers, and facilitate their obtaining employment.

3. That such office ought to be self-supporting, and the expense which may be incurred for the management of the office met by a deduction from the charges made for the delivery of the ship.

4. That the coalowners are willing to guarantee, to the extent of 500*l.*, the expenses that may in the first instance have to be incurred in the establishment of such office.

5. That

5. That the undermentioned gentlemen form a committee, to co-operate with the committee already appointed in London, for the purpose of arranging and settling the details of the proposed new system:— *J. Forster, Esq.* 13th July 1857.

Messrs. D. Jonassohn.	Messrs. Hugh Taylor, Chairman of the Coal Trade.
James Morrison.	Thomas John Taylor.
Thomas Wood.	Nicholas Wood.
Henry Morton.	William Anderson.
R. P. Philipson.	

(No. 2.)

Newcastle-on-Tyne, Coal Trade Office, Neville Hall, 17 June 1856.

General Committee Meeting.

Present:—Hugh Taylor, Esq., in the Chair; Messrs. Robert Anderson, R. P. Philipson, Thomas Wood, Henry Morton, Robert Plumner, Thomas John Taylor, Nicholas Wood, and James Morrison.

John Forster, Esq., M. P., attended the committee, and stated, that on Thursday next the advocates of a voluntary Coalwhippers' Office are to assure the Board of Trade that they are prepared to go on with the voluntary system as proposed, and that sufficient funds are guaranteed.

Resolved,—

1. That in reference to this subject, the committee reiterate the opinion which they have before expressed, that the Coalwhippers Bill is objectionable in principle, and ought not, under any circumstances, to receive the sanction of Parliament; and that they strongly feel it is most unjust to interfere in any manner with the labour market, by compelling the coalowner to employ members of a particular class, a course which has not been adopted with regard to any trade in the kingdom, and which cannot be applied to any without the most dangerous consequences.

2. That Mr. Forster be requested to assure the Board of Trade, when the intended interview shall take place, that the Coal Trade Committee for the counties of Northumberland and Durham pledge themselves, on their own behalf, and on behalf of such as are not present to-day, to promote and encourage the proposed voluntary office, and in furtherance thereof guarantee the sum of 500 *l.* to meet the expenses that may be incurred, it being distinctly understood that the contemplated office is to be self-supporting, and to be so conducted as to secure to the coalwhippers the opportunity of independently to obtaining employment.

3. That the above be forwarded to Mr. Forster, with the expressed opinion of the committee of the trade, that in any committee of management of the proposed office, the coal trade of these two counties should, if the entire number be seven, nominate four, and so on in a like ratio, in case the number of such committee shall be greater than seven.

(signed) *Hugh Taylor*, Chairman.

350. Lord *Stanley* of Alderley.] What has been the operation of that office during the last year; has it answered its purpose, and afforded an efficient supply of men for all the vessels bringing coal into the Thames to discharge their cargoes?

We have always been able to afford gangs for vessels requiring them.

351. Has the cost of unloading the coals increased or diminished since the cessation of the Act?

It has been decreased; the charge during the greater part of the existence of the late office had been 9 *d.* a ton, it is now 7 *d.*; the Parliamentary office had decreased this charge from 9 *d.* to 8 *d.*, in the early part of last year, shortly before the Bill for renewing the office was brought before Parliament.

352. Can you state to the Committee what have been the wages which have been earned by the coalwhippers engaged at the office during that period?

We have gradually raised them for the men employed by us; they have occasionally averaged as high as 1 *l.* a week; latterly I think they have averaged from 17 *s.* to 18 *s.*

353. Can you inform the Committee what were the average wages earned by the persons employed under the old office?

I can only give that from a return which they themselves gave to Parliament. Their average earnings in February 1856 were 13 *s.* 7 *d.* a week; previously

viously to that they were 15 *s.* 6 *d.* and 13 *s.* 11 *d.*; that was during the existence of the Parliamentary office; latterly the earnings have been 17 *s.* or 18 *s.*; they have been occasionally 1 *l.* a week.

354. Lord *Polwarth.*] Is the amount about 17 *s.* now?
Yes.

355. Lord *Stanley* of Alderley.] Are the Committee then to understand that concurrently with the cost of unloading the coal being reduced to the coal-owner, the wages of the men employed in coalwhipping have been raised?
Yes, of those employed by us.

356. Lord *Polwarth.*] Those employed from the office?
Yes, those employed from the office by us.

357. Do you know anything of the wages of those employed from other sources than the office?
I believe we are always slightly undersold, about a halfpenny a ton generally. I am told that the publicans just now charge 6½ *d.*, and that Mr. Regan, and those other independent employers of labour, charge about 6½ *d.*; so I am told.

358. *Chairman.*] While at the office it is how much?
Seven-pence for common colliers.

359. Lord *Polwarth.*] You do not know at all what wages the men actually receive from the other sources; what actually goes into their pockets?
As respects the two or three public-houses which carry on the business on any scale, I imagine that the employment is too irregular to enable any statement of average wages to be made; I imagine that they take a gang as they get a ship.

360. Lord *Stanley* of Alderley.] Are there any considerable number of men who are on your books at the office who cannot get employment for any long period; or can you state for how many days in the week they can get employment?
It depends upon the arrivals of ships; latterly there has been a great scarcity of employment, as I have heard this morning. This morning I understand from our registrar that we have not a man to spare.

361. They are all engaged and paid full wages?
Yes.

362. *Chairman.*] Then if any more ships come in, you have no men to supply them?
Men would come to us, but at this moment they are gone.

363. Lord *Stanley* of Alderley.] The general complaint has been that there have been more men than there has been work for them?
Undoubtedly.

364. Lord *Polwarth.*] When you speak of the average being 17 *s.* a week, do you mean when the men are employed, or throughout a certain portion of the year?
When they are employed, the men at work in a week earn that.

365. *Chairman.*] Can you state what amount of employment the men on the register have had since the office has been established; can you state the number of days generally on an average for which the men have been employed?
I cannot make such a statement from memory.

366. Lord *Stanley* of Alderley.] In the comparison which you made between the wages earned by the men at the present office, and the wages earned by the men at the former office, you in both cases calculated the sums which they received when employed, and not the sums which they received during the whole year?
I take this statement as I find it.

367. *Chairman.*] What is that statement?
This professes to be a statement of the average earnings of the whole body of men in the Parliamentary office.

368. Lord *Stanley* of Alderley.] What is it?
A "Return of the gross sum paid through the office for discharging coals, the average earnings per week of each man, and the average number of days per week each man was employed for the same years."

369. Lord *Ravensworth.*] On what is that average stated to be?
It begins with 1844, February to June; the average earnings are not given; they were employed four days a week on an average; the average earnings per week are not given until 1847. It is stated that from 1844 to 1847 they were employed four days a week. In 1848 their average earnings, for the first half of the year, were 18*s.* 2½*d.* There is a return earlier; in the latter half of 1847 the average earnings were 19*s.* 3*d.* In the first half of 1848 they were 18*s.* 2½*d.*; the second half of 1848 they were 17*s.* 6½*d.* The first half of 1849 they were 15*s.* 3½*d*; the second half of 1849 they were 15*s.* 10½*d.* The first half of 1850 they were 16*s.* 4¾*d.*; the second half of 1850 they were 17*s.* 0¾*d.* The whole of 1851 they were 14*s.* 10¾*d.* The first part of 1852 they were 14*s.* 0¾*d.*; the second half of 1852 they were 13*s.* 3*d.* The first half of 1853 they were 13*s.* 11½*d.*; the second half of 1853 they were 14*s.* 7½*d.* The first half of 1854 they were 16*s.* 6*d.*; the second half of 1854 they were 16*s.* 9¾*d.* The first half of 1855 they were 13*s.* 11½*d.*; the second half of 1855 they were 15*s.* 6¼*d.*; and from January to the 4th of February 1856 they were 13*s.* 7*d.*, being employed three days a week on the average.

370. Lord *Stanley* of Alderley.] Was not there a deduction made from their wages for the purpose of the expenses of the office?
It was a farthing in the shilling, I believe, in the Parliamentary office.

371. Do you make any deduction from the wages of the persons engaged at your office?
A farthing in the shilling.

372. Was not it the fact that that farthing in the shilling was not found sufficient to maintain the previous office, and that it was proposed to increase it?
It was proposed to increase it to a halfpenny, I believe.

373. Lord *Ravensworth.*] It seems that the minimum amount of wages earned by the men in the statement which you have read was 13*s.* 3*d.* per week, and that was under the existence of the Act of Parliament which regulated the office?
Yes.

374. *Chairman.*] You mentioned 17*s.* 6*d.* Is that average of 17*s.* 6*d.* to be compared with a similar period, as given in those tables during the operation of the Parliamentary office?
The number of men employed in the office, upon whom this average was struck, is not stated in this return.

375. Therefore you will not say that the average of that number of men would be larger than the average of the number of men in your amount?
I cannot say without knowing upon what number the average was struck.

376. So that unless they were under exactly similar circumstances, that average which you have given us could not be relied upon?
I do not, I confess, place any value on this statement.

377. Nor upon your own statement?
Pardon me, upon our own we do; our own is a statement of the earnings of the men who have been at work in any week.

378. As a comparison with that statement, you cannot compare it if you put no value upon it?
No, not without knowing more about the manner in which this statement is made up.

379. Though your own statement may be correct, yet you cannot compare it with a statement upon which you do not put any value?
No; I have no doubt they made their statement look as good as they could. I am proposing to point out that the most intelligible part of this return is that of the gross sum which the Parliamentary office received for the discharge of coals. It begins in 1844; for the first half-year it was 24,497 *l.*; in the second half-

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half-year it was 38,576 *l.* In 1845 it was 45,751 *l.*, and 46,221 *l.* for the second half-year. In the first half-year of 1846 it was 52,976 *l.*, in the second half-year it was 31,219*l.* In the first half-year of 1847 it was 46,754 *l.*, in the second half-year it was 49,874 *l.* In the first half-year of 1848, it was 49,565 *l.*, in the second half-year it was 46,124 *l.* In the first half-year of 1849 it was 38,726 *l.*, in the second half-year it was 38,417 *l.* In the first half-year of 1850 it was 38,823 *l.*, in the second half-year it was 39,474 *l.* In the first half-year of 1851, it was 43,993 *l.*, in the second half-year 22,499 *l.* In the first half-year of 1852 it was 29,064 *l.*, in the second half-year it was 24,672 *l.* In the first half-year of 1853 it was 25,436 *l.*, in the second half-year 25,802 *l.* In the first half-year of 1854 it was 28,182 *l.*, in the second half-year 28,267 *l.* In the first half-year of 1855 it was 22,829 *l.*, in the second half-year 23,586 *l.*

380. Lord *Stanley* of Alderley.] So that it would appear from that return that there had been a gradual diminution in the sums paid to the persons engaged at that office?

Yes.

381. To what do you attribute that; do you attribute it to a less number of men being engaged in coalwhipping generally, or to the men being employed by private persons, and from other sources?

It arises from the employment of private gangs, I imagine, and the introduction of machinery.

382. Then you attribute it rather to a general diminution of the whole number of persons employed in coalwhipping in the river than to the diminution in the proportion of persons taken from the office?

Yes.

383. *Chairman.*] Has there been a greater amount of machinery in operation since the cessation of this Act than for the six months previous?

Certainly; it is on the increase very much.

384. Lord *Stanley* of Alderley.] It is annually on the increase, is it not?

It is generally on the increase.

385. *Chairman.*] It has increased very much during the last six months?

Yes.

386. Lord *Stanley* of Alderley.] Can you inform the Committee of the number of gangs which have been supplied from the office during the last year?

I have directed returns of that sort to be made up at the office, but I am not provided with them to-day.

387. Perhaps at the same time as you get those returns you will also get returns as to the number of ships which have been unloaded in the river, the number of ships which have been unloaded by the gangs taken from the office, the number unloaded by gas companies and by private individuals, and any calculation which you can make as to the number which have been unloaded by gangs obtained from publicans or elsewhere; do you think that such returns could be made up?

Yes; such returns could be made up, to the best of our knowledge.

388. *Chairman.*] In calculating the wages, in the case of steamboats are not men employed night and day?

Occasionally.

389. Are not higher wages paid to the class of men who unload steamboats?

I believe not; the charge for discharging screw colliers, on the contrary, is lower than that for discharging sailing vessels.

390. Are the men who are employed night and day separate gangs, or are they not paid extra wages for extra work?

Not usually separate gangs, I believe; but I am not the best witness who could be called on these points of detail.

391. If that was the case, would not it raise the average rate of wages?

It would.

392. Lord *Ravensworth.*] Whom would you suggest to be called as a proper witness to elucidate that?

The manager of our office, Mr. Barber, who was registrar of the Parliamentary office.

393. Lord *Calthorpe.*] Have you heard anything of the increase of drunkenness since the expiration of the Act?

No.

394. *Chairman.*] Have you any means of knowing whether the gangs unloading any of the vessels get drunk, or become drunk on board?

Not unless a complaint is made to us of their conduct.

395. Have you had any complaint of those whom you furnish from your office?

We have had occasionally complaints, but very few; I believe the conduct of the men has been generally very satisfactory.

396. Lord *Polwarth.*] You are aware of gangs being furnished by public-houses?

Yes.

397. Is it your opinion that that is on the increase?

It is not, in my opinion. We get the best information that we can; we keep a list in a book made up from the best information that we can procure of all the coal trade ships which did not discharge through our office; and we state in that book, as well as we can ascertain, the means by which they have got their gangs.

398. *Chairman.*] What are the means which you use to ascertain that?

Information derived from our own men.

399. Derived from your men at your office?

Yes.

400. But you have no means actually from the captains, or from the coalmeters, of knowing which men are employed from public-houses, and which from private parties?

No; we must collect it from hearsay, and the report of the river.

401. You have it only from hearsay from your own men?

Yes.

402. Do you think that very reliable evidence?

It will give only generally the state of the case, I imagine.

403. Lord *Calthorpe.*] Would that information supply you with any instances of drunkenness on board ships where the coalwhippers were furnished by publicans?

That is a point as to which we have made no inquiry; we have inquired as to the ships which have discharged through public-houses, but not as to the conduct of the men on board them. I consider that we know pretty accurately what ships discharge through public-houses, and what through other channels.

404. *Chairman.*] There are some which discharge through public-houses?

Yes.

405. Are there any such ships of parties who have signed this agreement?

Occasionally coals belonging to those parties would be on board ships discharged by a publican, but the ships themselves generally are of three classes: ships from Wales, ships belonging to Whitby owners, and ships belonging to Blyth owners.

406. Lord *Stanley* of Alderley.] But, generally speaking, you believe that the ships belonging to the Tyne and the Wear do engage men at your office?

Yes.

407. *Chairman.*] But not the whole of them?

There are exceptions, which we do our best to combat.

408. Do you remember that when that agreement was come to, it was stated that there was a distinct understanding on the part of the whole trade to support the proposed office?

Yes.

409. Do you think that that has been fulfilled?
Yes.

410. What is your meaning of the words whole trade?
The great majority of the trade.

411. By the whole trade, you mean only a majority of the trade?
I mean more than that. There have been exceptional cases; but I believe not with the assent of the coalowners.

412. We have heard that a captain may break through the instructions which he receives from the owner?
No doubt he has occasionally broken through the instructions which he has received.

413. And it, of course, would be more difficult for him to do that if it was against an Act of Parliament?
They did discharge some ships through public-houses under the Act of Parliament, I believe.

414. Did you know of any?
Not of my own knowledge; but I take such to have been the case.

415. You only speak from what you have heard?
I speak from what I have heard.

416. Did you ever write to any one complaining that there were parties who did not keep by this agreement?
In all cases in which we have ascertained that any shipowner on the Tyne or the Wear, or that any ship from Durham or Northumberland, has discharged through a public-house, notice has been taken of the thing in the way which we thought likely to be the most effectual. Sometimes we have written to the shipowner; sometimes we have written to the colliery chartering the ship.

417. Therefore you admit that there have been cases where the coalowners have employed public-houses?
No; but where a ship which has had coals has been discharged through a public-house.

418. Lord *Ravensworth.*] But you state that those things have been very rare?
Decidedly rare.

419. Lord *Stanley* of Alderley.] And I suppose they were cases in which the master of the ship was disobeying the instructions of the coalowner?
Yes; and in the case of Whitby ships, the Whitby shipowner had neglected his duty.

420. *Chairman.*] So that there are some shipowners who have done so?
Those owning the Whitby ships; I think scarcely any from the Tyne or the Wear.

421. But you have written complaining that some of the Tyne owners have not kept the agreement?
Yes; I have written to the shipowner himself.

422. Did he admit it, or what excuse did he give?
In the case to which, I dare say, your Lordship alludes, he returned me no answer whatever; but I read in a north-country newspaper, the "Gateshead Observer," a notice of my letter having been sent, in which the contents of my letter were somewhat misrepresented.

423. Still that man, being a party to this agreement, did not fulfil it?
His ship had been discharged through a public-house.

424. Lord *Calthorpe.*] What is the number of men whom you employ in your office as whippers?
Above 700 now.

425. What proportion does that form of the whole body?
I imagine that there must be about 1,100 in all.

426. Lord *Stanley* of Alderley.] You consider that the gross number of persons employed in coalwhipping is 1,100, and that about 700 were taken from your office?
Yes, about 700.

427. In what proportion should you estimate the quantity of coals whipped; what proportion of them are whipped by gas companies and by private individuals and their servants, and what would remain to be whipped by other sources?
I think that we discharge about three-fifths of the whole number of ships coming into the Thames. There is about one-twelfth, as far as we can judge, discharged by publicans.

428. The remainder being whipped by gas companies, or by the servants of private undertakers?
Yes.

429. Lord *Calthorpe.*] You do not think that above one-twelfth are worked by publicans?
Not above one-twelfth.

430. *Chairman.*] It has been at that rate since October; in October the Act ceased, did it not?
It ceased, I think, on the 1st of August.

431. Lord *Ravensworth.*] About 700 men, you say, are employed in your office?
Upwards of 700 men are employed in our office.

432. Lord *Portman.*] You have 700 men employed daily; what is each of those men earning daily?
There is a rule for the discharge of the sailing ships, that they shall discharge 49 tons a day. The coal-merchant may get the coals out faster if he likes, but, generally speaking, it is not, I believe, his interest to do so; and it may be assumed that he works about the quantity which he is bound to work, that is, 49 tons, at 7 *d.*, among nine men.

433. Lord *Calthorpe.*] Those 700 men who are employed from your office have nothing to do with public-houses, except what they choose to drink there?
They have nothing to do with public-houses, excepting their own visits to them.

434. There is nothing compulsory?
No.

435. Lord *Ravensworth.*] They have nothing to do with being engaged through public-houses in any way?
No. Just at this moment the work is undoubtedly falling off; there is less work in the office at this period of the year.

436. *Chairman.*] Are the number of men on the register more or less than they were at the commencement?
We have no register.

437. Then how do the men know how they stand for employment?
They go to the office, and get themselves into a gang.

438. Then are the gangs taken in turn?
Yes.

439. Under the old office there was a register, was there not?
Under the old office there was a register.

440. So that a man could know when he was likely to get employment, by knowing how he stood on the register?
He can know that now by knowing how the turn of his gang stands.

441. Then they register those gangs?
The basket-men are registered as gangs.

 442. Do

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442. Do they engage the other men?
They take the men into their gangs.

443. They engage the other men, in short, to work with them?
Yes.

444. Lord *Calthorpe.*] Are the men who are employed paid at your office, or where are they paid?
They are paid at our office.

445. Is that invariably the case?
Invariably, I believe.

446. *Chairman.*] Does it rest with the gangman as to whom he employs?
Not wholly so; we rely upon our registrar to see that there is no favouritism on his part.

447. And the gangmen take their turn?
They take their turn of the ships as they come. With respect to the gangs who discharge screw colliers, it requires the best men to do such work, and they are the best men from the other gangs.

448. Do they get higher wages?
No, they get a lower rate per ton; but they are allowed to work out a certain quantity of coal in a day, so that they can earn higher wages.

449. Then that, of course, would make the average greater?
Yes.

450. Are there other men, then, who are not earning so much as 17*s.* 6*d.*?
If the steam collier gangs were taken out of the body, no doubt that would somewhat decrease the average of the other men.

451. Lord *Ravensworth.*] Are there any additional facilities given in the screw colliers in discharging the coals to what are given in the old style of ship?
I have no personal knowledge of the steam collier work.

452. *Chairman.*] You stated to Lord Portman that each man could earn 3*s.* 2*d.* a day, and you stated that they work, on an average, four days a week?
No, I did not make that statement.

453. How many days are they employed earning 3*s.* 2*d.* a day, on the average?
It depends upon the supply of ships in the week.

454. Lord *Portman.*] Will you state the mode in which you pay the men; do you give the whole sum to the head of the gang, or do you give the money to each individual?
Those questions I wish that your Lordship would ask of our manager.

455. Lord *Wynford.*] Do the different gangs whom you employ pay you any fees for being entered on your list?
No; there is a farthing in the shilling for the expenses of the office.

456. *Chairman.*] When you state that the men can earn 17*s.*, as the average, is it supposing that they are employed a whole week?
No; that statement is as to the average earnings of the men who have been employed in any one week; perhaps among those men there may be some who have been only employed one or two days in that week; others may have been employed five days in the week; it is an average taken upon the number of men who have *bonâ fide* been at work from our office in any one week.

457. All that a man could earn would be 18*s.* 6*d.* a week, according to your own statement?
The average has been above that; it does not follow that in every case the coal-merchant takes the full length of time to receive the coals which he is entitled to; he may take them faster than 49 tons a day.

458. Lord *Stanley* of Alderley.] That is upon the calculation of 49 tons?
Yes, that is what he must earn if he is at work.

459. But

459. But in some cases they are allowed to whip a greater quantity of coal than 49 tons? *J. Forster, Esq.*
Yes. 13th July 1857.

460. And of course that would be increasing the wages to that extent?
Yes. The meaning of my observation about the 49 tons is this, that if a man is put to work at coalwhipping from our office, the gang must either work 49 tons a day, or if they do not work it, they are paid for it; the coal-merchant is bound to cause them to work at least that quantity; as much more as he likes, and can get them to work; and if they do not work that quantity, he has to pay them for 49 tons.

461. *Chairman.*] What is the amount of coal generally brought by the ships?
I am running the risk of giving the Committee inaccurate information. I would submit that these questions should be put to the manager.

462. You still maintain your statement that 17 *s.* a week are the average earnings?
That I think, latterly, has been the average return; but I will to-morrow furnish the Committee with the statement.

463. Do you know how long it takes to unload a ship by one of the gangs?
I cannot state.

The Witness is directed to withdraw.

Mr. JOHN BARBER is called in, and examined as follows:

464. Lord *Ravensworth.*] WHAT are you? *Mr. J. Barber.*
I am manager of the Coalwhippers' Office.

465. Were you also engaged in the management of the former office, established under Act of Parliament?
I was, for 12 years.

466. You have had experience of the present office for about a twelvemonth; what is your experience of the comparative advantages of those two offices?
I believe that if an efficient number are continued to the office, the men will earn a larger average of wages.

467. And thereby, you think that the condition of the men will generally be improved?
Yes, I think so; I look to it as working to that effect.

468. Those men who are engaged through your office are protected, are they not, from the exactions of publicans?
Certainly.

469. Then the grievances complained of apply only to those men who are engaged in other quarters than through the office as at present established?
Just so.

470. *Chairman.*] Do they earn larger wages from this office now than they did under the former office?
Yes, now they do.

471. What can a man earn per day in coalwhipping?
I can give you the average; some men have done 300 tons in 48 hours, at 6 *d.* a ton; it is the qantity that can be done which makes the difference.

472. One gang of men, you mean?
Yes.

473. Lord *Calthorpe.*] That is 7 *l.* 10 *s.*, to be divided among nine men?
Yes.

474. *Chairman.*] Did those men work night and day?
Yes; but they have something extra; they have 8 *d.* from six o'clock to six, which brings the money up to them more than it was as I first stated.

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475. But that is working night and day?
Yes.

476. That of course must raise the general average of the wages of the coalwhippers?
There are two averages taken; we take the average of the men who are working the ships in the Pool, and we take the average of the men who work the steam ships; the one is much larger than the other; the one is 18 *s.* 11¾ *d.*, namely, the steam gangs; the others earned only 13 *s.* 1¼ *d.*

477. On an average?
On an average.

478. You do not include those who work night and day?
Not in the small average; of course if they were put together the general average would be more than the 13 *s.* 1¼ *d.*; in the small average I take only the sailing ships; not steam ships or tank work.

479. That is the average for how many days?
For a week; it is taken every week.

480. Has it not varied?
Yes; I can report, if required, the average of every week for some considerable time.

481. Is that the lowest or the highest?
This is about the average; there has been higher, and there has been considerably lower.

482. Is that the average earning of so many weeks, or only the average earning of one week?
It is the average of last week only.

483. How many days' work?
That is the average of the paying of 700 and odd men.

484. I want to know how many days' work that average was taken on?
For a week, upon 700 and odd men.

485. Lord *Stanley* of Alderley.] When you state that that is the average, it is upon the supposition that a man is engaged for six days in the week; it is the earnings paid to all the labourers employed from your office, is it not?
Yes; some earn more, and some less. Some are at work, and do a great deal, and others do not.

486. Is it not the fact that some of the coalwhippers are only employed for three or four days, according to circumstances?
That is in one week; the next week they may be employed almost all the week.

487. Is it not the fact that the coalwhipper is not employed solely at coalwhipping, but that when he has not work at coalwhipping, he does work in the docks, or wherever else he can find it?
Yes; there is no objection to it.

488. *Chairman.*] But for that purpose he must know whether he can be employed; he cannot absent himself?
Yes, he may; he has only to report himself to his basket-man, and he can absent himself for the first or second day; but we expect them to keep to their gangs.

489. Must he not lose his work for that time?
As long as he is willing to have another man put in his place.

490. Lord *Stanley* of Alderley.] Was not it the same with the old office as in the new one?
Yes.

491. You were registrar to the old office, were you not?
Yes.

492. Are the returns made out in the paper presented to Parliament made out in the same way in the old office as in the new one, or in what way?
I cannot state. I was the registrar there; but there was the accountant, and he made them out, and they did not at all come under my notice. My department was the regulation of the working of the men, and his department was to make out the averages. I do not know how he made them out; the Commissioners looked over to see that it was correct, and those documents cannot be produced, unfortunately.

493. Could not you ascertain and inform the Committee in what way those accounts were made out?
I dare say I could.

494. It would be desirable, for the purpose of making a fair comparison, to see whether those returns were made out in the same way as in the new office?
I will endeavour to do so.

495. *Chairman.*] Will you state what the different classes of men earn in a week?
We have no classes in the present office.

496. Those employed at steam colliers, and those employed at common ships; what can those employed at steam colliers earn per week, and what can those employed at common colliers earn?
I have stated it for last week.

497. That is the average; but can you state what one man can earn?
If he does 300 tons, he will have a share of the 6 *d.* for the short time, and 8 *d.* including the nightwork; but unless I knew how that was divided, I could not get it out; I should say that men had earned at the rate of 27 *s.* a day.

498. Working night and day?
Yes; it is dividing 10 *l.* by nine; the gang will earn 10 *l.*; it is the ninth part of the sum; of course one man will have a ninth part of the 10 *l.*

499. Lord *Stanley* of Alderley.] How many tons can a gang whip in an hour?
Twenty-three tons have been done in one hour; that is the most that I know of having been done.

500. Lord *Calthorpe.*] That would be a very efficient gang?
A select gang.

501. *Chairman.*] What is the ordinary work of a gang?
In the Pool I should say 14 to 16 tons in an hour.

502. And there are nine men employed at that?
Yes.

503. Lord *Portman.*] Do you pay per ton to the head of the gang?
To every man his portion.

504. You select the portions, and do not pay the head gangsman?
We pay every man after he has done; he separately receives it, with some exceptions when the men want to be away, and then we let them be away; in that case we let the foreman take the money for them, under the guarantee that he is responsible for the payment of it to them.

505. In paying those men, do you consider them all equal, and do you divide a whole sum equally between them, or do you take the able at one price, and the infirm at another?
It is done equally, with the exception of the iron steamboats.

506. How do you do in that case?
In that case we pay the men separately; but we pay them a larger sum because they do a larger quantity; they all receive the same; we have no distinction now. There are no men in the office now who have days given them, and who sometimes would take a job, and do very little. In the office now, whatever old men there are, are efficient.

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507. Lord *Stanley* of Alderley.] In the new office did you not discontinue many of the old and infirm men?
Yes, I did, 50 or 60.

508. You considered, did you not, that if you retained them, it would have been unfair upon the remainder of the gangs who were retained?
They considered that it would have been unfair. I often had the complaint from the men that they were doing the old men's work, and unfortunately I found that the old men were not all grateful for it. And then I had a complaint from the ships that the old men could not work sufficiently fast to forward the ship, and also from the lightermen, to say that they would not put the lighters alongside, and I have had to bring them back again, and send good men. It was perfectly an act of charity on the part of the old office to let them go to the ships; but it was not just to the able men.

509. So that, in fact, under the old system the coalowner or the shipowner was obliged to employ the inefficient men at the same rate as the efficient ones?
Yes.

510. Lord *Calthorpe*.] Are all your 700 able, efficient men?
I believe they are.

511. What was the number registered under the old office?
I think from 1,200 to 1,300.

512. *Chairman*.] What have become of the old men, do you suppose?
They have gone away at different times.

513. Do you, then, refuse to take such men into your office?
I should refuse a man if I knew him to be of a bad character, or not capable of doing his work. I submit him to the basketman first, and if he likes to take him, he will try him. He reports, when he has tried him, that he is a sober and able-bodied man. I then take him, and appoint him to a gang.

514. Under the old office, could an inefficient man oblige you to take him?
Yes, it was part of the Act.

515. Lord *Stanley* of Alderley.] Was not it a part of the Act that any man could compel you to put him upon the register?
An able-bodied man, the Act said; but the Commissioners never refused any man.

516. *Chairman*.] But I suppose it would have been in the power of the Commissioners to refuse any man at that time?
The difficulty was, that the Commissioners were not there; and when I applied for permission to do so, there was a feeling that it was painful for the old men to go; and another thing was, that it was not decided by the Act who was to examine those men. As I was not a medical man, and had very little knowledge, I could not tell much about a man but by just looking at him.

517. Then you did apply that the old men should not be put upon the register?
I did.

518. And you were refused?
They would not interfere, and they left it to myself.

519. You were refused by the Commissioners to strike off any men?
Yes; they said they would not interfere.

520. Could you have done it upon your own authority?
I could have done it, but I did not like to take upon myself to do it among a large body of men.

521. There would have been no reason under the old Act why it should not have been done?
No.

522. Excepting that the Commissioners did not like doing it?
They did not. I then stated that it was unfair; when I came to this office, I considered

I considered it unfair, and I was very glad when I named it to the present Committee that it was not fair to the able-bodied men in the office, nor to the merchant, nor the shipowner.

523. Then that Committee attended to your representation, whereas the Commissioners did not?
That is so.

524. Lord *Stanley* of Alderley.] I think you have stated that the men have better wages under the new office than they had under the old one; to what do you attribute that?
To the great reduction in the number of gangs.

525. *Chairman.*] At your office?
At our office.

526. Lord *Stanley* of Alderley.] In comparison with the old ones?
Yes; we had 120 odd when the old office broke up, and now we have only 82.

527. *Chairman.*] Do you suppose that the other coalwhippers who are not registered are still working, or what has become of them?
They have gone to work at other work; at dock work, and steam work, and tank work.

528. Have they gone to the coalwhipping work?
Yes, many of them are gone to the coalwhipping for what are called *bonâ fide* men and for the publicans.

529. Where do they get that work?
From the coal-merchants and ships.

530. Lord *Stanley* of Alderley.] Coalwhipping is not a skilled description of labour, is it; it is a labour which any ordinary efficient man can perform?
A man in six days, with attention to the people who have learnt it, would be qualified, I think; but we also deliver coals with the winch.

531. *Chairman.*] These coalwhippers must reside in the neighbourhood to be ready for the work when required, must they not?
No; many come from Deptford, and some I have had from Woolwich, industrious men; some have wives who take in washing, and if they are industrious men, they will walk up to London, and be in time for the rest of the gang.

532. You stated that there were 50 or 60 inefficient men whom you refused at the office; are there any more whom you have refused?
I have now 82 efficient gangs; but I dare say I dismissed from 50 to 60 men whom I considered unfit for the office.

533. Lord *Calthorpe.*] Were you the judge, then, of their efficiency?
Yes; I was judge so far, that I told the men, "Now you are going to have transhipments, and all sorts of work." I was in hope that it was all coming to the office, and therefore it would have been useless for me to have men who could not undertake that work. If the men were past labour, and could not do the labour, they left. I told them that they must not stay to do the work. Then an efficient basketman had to select his own men; and my orders were, "Pick out the proper able-bodied men, so that, if possible, we may have better men than those outside." The basketman picked out his men, brought them to me, and I entered their names in what we call the gang-book; that is a book in which the name of the foreman is, and all the other men. Then they are requested to keep together; unless any accident happens, or there is bad behaviour, they do keep together. If any man dies, or is absent, from his own pleasure, then we appoint another man in his place. There was a question put to the chairman, which he could not for the moment explain, and I think your Lordships do not quite understand it; perhaps you will allow me to explain it; it was a question as to the number of men at the office, how many remained unemployed. This morning there was not one able-bodied man, when I called out for one, who was not in a gang; but then I had from 30 to 40 or more men who were disappointed, in their ship not being sold or bought, or else they cleared a very small ship, and they were ready for my service if I wanted them. If a man is absent, I put one of them in the gang to fill it up.

 534. *Chairman.*]

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534. *Chairman.*] Had you ever had a demand for more men than you could supply?
Yes; at the beginning of the office.

535. What did you do then?
I took as many as I wanted, who were able-bodied.

536. What did you do to collect the men?
A public notice was given that the office was open, and that they might apply.

537. Lord *Ravensworth.*] Then this system, you think, works well at present?
I have no doubt of it. I should like to see the work increase at the office.

538. *Chairman.*] You have stated that the wages of the men employed at the office are higher than they were under the old system?
Yes, I believe they are.

539. What can a man earn a day?
I cannot state, because we have averaged it. The averages are taken of what 700 and odd men have been earning in a week, and then it is divided among them.

540. Of what number of tons are the generality of vessels coming up from the North?
From 200 to 300.

541. How long does it take to unload a vessel?
It must be done at the rate of 49 tons a day, but it may be done in two days.

542. Lord *Stanley* of Alderley.] From your experience can you state that you consider that the men are earning better wages, and at a less cost to the coalowner and shipowner in the North?
Decidedly; if the work comes to this office, this office will be better; the men will be as well regulated, I trust; the men will get also as much money, and all those fines and penalties which were in the Act will not be called for. I can say that during the time we have had this office we have not lost a farthing. We have fined captains and owners 10 *l.* if they did not pay under the old office.

543. Is it your opinion that the practice of engaging gangs at public-houses has much increased of late?
It has increased lately; I cannot say exactly how much.

544. Do you think there is much danger of the old state of things recurring, in which the publicans will have the command of the greatest number of gangs that will be employed in coalwhipping?
I should think not. I cannot form an opinion of the ability of the gentlemen in the North; we shall certainly increase, and they will decrease.

545. If the coalowners of the North continue to maintain this office, you do not apprehend that there will be a revival of the old state of things?
Certainly not.

546. Lord *Calthorpe.*] Do you agree with Mr. Forster that not above one-twelfth of the whole number of men are engaged by publicans?
I should think about that.

547. What is your opinion as to the reason why more men are not required at your office; we understand that about 700 men are employed at your office?
About 700.

548. And that there are about 1,100 altogether?
My object has been to reduce the number of gangs, and the number of men, in order that they might have more work among them, and earn more money; there is no register kept; we keep the men in a gang book, as I stated before.

549. *Chairman.*] The basketmen you register, do you not?
No; there are none registered otherwise than in the gang book.

550. That

550. That is the basketman?
Yes; he is first, and then the rest follow; it is not a register like that under the old Act; it is a book in which we keep the account.

551. Can you state how many days any of your office men have been out of employment?
Sometimes more than a fortnight.

552. Have they ever been a month out of employment?
No; I know they have not.

553. No man in your office has ever been a month out of employment?
Not that I recollect; I think it was from a fortnight to three weeks, and then they were in distress before they went to work.

554. No man has been more than three weeks out of work?
There may have been one; at the time I noticed that, that was the average.

555. Lord *Calthorpe.*] Do you think that any of your men save their money?
Yes; we have some few very careful men; there is not much to save out of that amount.

556. *Chairman.*] You state that sometimes men work long hours in unloading colliers; do you think it would be better to have two gangs, instead of working night and day?
I think so; it is under the consideration of the committee; but still they are not compelled to work the night.

557. But in order to be retained at their labour, they must do it at present, must they not?
No, they are not compelled at present.

558. Then do you give them the option?
They have the option of sending for another gang; but they are very glad to get the work; and though it is very hard and distressing, and most dangerous in the dark, they do not like to give it to any other person.

559. Do they work night and day, do you know, when employed from public-houses?
They work night and day for Mr. Cory at present.

560. And for Regan?
Regan could not get men to do it.

561. Why not?
Because he picks up men along shore, who are not equal to the ordinary men of anybody else.

562. Then how does he get so much employment for his people?
He works under price.

563. That is to say, he works for the coalowner at a lower rate?
I do not believe that the coalowners are looking at that.

564. The shipowner?
The shipowner, perhaps.

565. He works for the shipowner at a lower rate?
Yes.

566. Lord *Polwarth.*] Are they his permanent servants which he employs?
Certainly not; they are picked up in an hour.

567. *Chairman.*] Did he carry on the same system during the operation of the late Act?
He did to a certain extent. They were obliged to make offers; it was under that pretence; if not, he got a captain or owner to say that he was his agent, and by that means he got the work; it was an evasion.

568. Was he ever pulled up before the police court?
Yes; I had to summon him three or four times, at least.

 569. Then,

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569. Then, so far that old Act was inefficient?
Yes; it could be evaded in a great number of instances; I was unable to enforce it.

570. The old Act was inefficient in that respect?
It was, as far as that went. Although I had an idea that they were completely evading the Act, I had no proof.

571. Then the shipowners are now getting coals unloaded at a cheaper rate than under the old system?
Yes, from the office.

572. Why is that?
The shipowners will make an offer of so much, and the men are willing to take it.

573. The men employed at your office?
Yes.

574. Why are they willing to take it, do you suppose?
They secure more from our office than from the public-houses; they are treated better, and at our office they get the whole of the money.

575. But it is in consequence of solitary men being engaged from public-houses and in gangs, such as Regan's, that they get the work at a lower rate?
Yes.

576. Therefore the wages are beaten down at your office?
Yes.

577. Then the competition, by the cessation of the Act, has enabled the shipowners to get the work done cheaper?
Yes, and all others.

578. Lord *Ravensworth.*] The competition, you have said, enables the shipowner to get his work done cheaper; does that refer to the whole condition of the trade, or only to certain circumstances which occur occasionally?
I believe it refers to the whole of the trade, whether from the office or from *bonâ fide* men, or whether from the public-house. The men work in opposition to one another; when the office man's price comes down, the public-house man's price comes down, and then the *bonâ fide* men must come down.

579. In fact, it is the competition in the labour market, and not an unfair competition?
I cannot think anything unfair; as far as the employers are concerned, they have a right to do so; but what I regret is, that the men should do so among themselves.

580. You stated that upon one occasion the gangs were out of work for a space of three weeks?
I think so.

581. That was the greatest time for which you have ever known them out of work?
Yes.

582. What was the cause of that?
The want of ships.

583. The non-arrival of ships from the North in the port of London?
Yes.

584. Of course when there were no ships to be discharged, the men could not get work?
No; it has been the same for a much longer period in the old office; the men were in distress.

585. That is a common incident in trade?
Yes, in all trade.

586. You were engaged in the management of the former office, which was constituted

constituted under Act of Parliament; and you are engaged in the management of the present office, which is kept up by the coal trade?
Yes.

587. Was there any difference of amount in the costs and charges of the respective offices, including all the different charges which were incident to the establishment?
There was nothing but one farthing in the shilling deducted from the men, and it is the same now.

588. Lord *Stanley* of Alderley.] But was not that found to be insufficient, and did you not propose to increase it to a halfpenny?
It was proposed to increase it to a halfpenny, with the idea of adding benefit societies to it, and of subscribing to charities. It did just pay when it was breaking up, but it was supposed that it would fall off.

589. *Chairman.*] Is it paying now?
Ours is paying, I take it.

590. Lord *Polwarth.*] It is much less expensive, because you have only half the number of men?
Our expenses are much less than theirs were.

591. Lord *Stanley* of Alderley.] Did not the coalowners themselves contribute some portion of the money necessary for establishing the office?
None to the old office.

592. But to the new one?
Yes, I believe they did; 50 *l.* some of them; I know that I got from one gentleman a cheque for 50 *l.*, and some contributed more.

593 Lord *Ravensworth.*] And now the thing pays?
Now it pays.

594. *Chairman.*] Do you attribute that to the better management of the office, or the better system on which it is conducted?
It is in consequence of the reduction of the premises; they are not so expensive, and the pay of the officers is reduced.

595. But that economy might be practised under an Act of Parliament as well as otherwise?
Quite so.

596. Lord *Ravensworth.*] Only it was not practised?
It was not.

597. *Chairman.*] You say that there is a great competition going on between those out of the office and those in the office, which reduces the price?
Yes.

598. Has not that been the cause of great suffering amongst the people?
No doubt about it.

599. Has the price of coal to the consumer been reduced in consequence of this lower rate?
I never knew it so low; I am sure it has been so; they are delivering coal at 1 *l.* in the Regent's Canal; but that arises not only from the low price of whipping, but from the competition in the coal trade, one merchant against another. As in all other cases when the price is very low, the men endeavour to get it higher, which may be the case any day.

600. But during the operation of the Act, there were no strikes, were there?
Yes, we had one for a short time; but we worked from the office at the rate of from 4½ *d.* to 9 *d.*

601. When was this?
I cannot say exactly.

602. There was a strike during the operation of the Act?
Yes, for a short time.

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603. Lord *Calthorpe.*] But one?
But one.

604. *Chairman.*] How long did it last?
For a very short time.

605. How was it settled?
The men got their price.

606. Did the men ever reduce their price?
Yes.

607. Voluntarily?
Yes, when they found a good many ships going away from the office by the competition outside, they then saw the necessity of lowering the price.

608. Did they do that on more than one occasion?
On two or three occasions.

609. During the existence of the Act, the men reduced voluntarily their price?
They did so; there was no fixing of price by the Commissioners.

610. How was the price regulated?
The men agreed; they lowered and raised the wages just as the trade was supplied.

611. And this was without any strike, except on one occasion?
Yes.

612. It is of advantage to the shipowners and coalowners to avoid strikes?
It is of advantage to them ultimately; when the men struck for 9*d.* from 8*d.*, the shipowners raised it; then on the reaction the men had to come down to 7*d.*

613. Lord *Stanley* of Alderley.] Do you think it of advantage to the coalowners and shipowners to have wages kept up compulsorily by an Act of Parliament?
It has never been so.

614. Would it not appear that the wages had been kept up unduly since they have been reduced in amount since the office has been discontinued, and open competition has been allowed?
They had better means to keep it up: by the clauses of the Act, the parties were required to make a certain offer, and the men required that it should be 7*d.*, but they offered 6*d.*; it was refused, and then they dare not get it done at 6*d.* anywhere else after that, except in the case of *bonâ fide* servants.

615. *Chairman.*] So that the men were prevented by the Act from offering their services elsewhere, if they were on the register?
Yes.

616. So that that was a great control over the men?
Yes; they could not go and work for less money unless they had a certificate to state that we had refused them; they must work at the same wages.

617. What is your opinion why, on the part of certain coalowners, there was an opposition to the operation of the Act while it was in existence?
The objections were, that they thought it too much a monopoly that they should be obliged to make a tender of a certain price for a cargo before they could get other men, and in addition to that, the fines were very annoying to them.

618. Lord *Stanley* of Alderley.] Are you aware of any coalowners who would wish the old Act to be continued?
I am not.

619. You never heard of it?
No.

620. *Chairman.*] Have you any means of knowing the ships which come to be unloaded at the office, and those which come to be unloaded elsewhere?
I have

I have a pretty correct account of it. I have kept an account of it, from the best information I can get. I have sent off men to ascertain the facts. I have an account of those worked by public-houses, as far as I could get it, and those worked by *bonâ fide* servants. Of course, as to the merchants, I cannot get it; I have tried it both by the docks, and from Mr. Cory and others; it is not possible to obtain it; they will not give it me; if they did, I should know the amount of their business, and none of them will tell me; and I know of no other means of doing it.

621. Lord *Stanley* of Alderley.] Are there any means of stating what wages are got by men engaged by private parties, such as Mr. Cory's gang?
Yes.

622. Do you know what they are now?
I do not; they are more than ours are. There is a less number of men, just upon the same principle, and they get the best part of the work among them.

623. Do you know how many gangs are employed by Mr. Cory?
Mr. Cory promised me that he would employ only eight.

624. *Chairman.*] By employing fewer men, he gets more to divide amongst them separately?
Yes.

625. Lord *Polwarth.*] Do you know what per-centage a contractor of that sort gets from the men's wages?
I do not. There is no doubt that both the merchant and the foreman get a profit out of it, but I do not know the amount.

626. Lord *Ravensworth.*] Mr. Cory's transactions are quite independent of your office, are they not?
Quite so.

627. Do you see any harm in that?
No, I do not see that there should be any compulsion put upon him; a man has his own coals and his own property.

628. Under the old Act of Parliament could Mr. Cory have made these independent arrangements?
He did so.

629. *Chairman.*] Could he have done so under the Act?
Yes; the Act puts in the *bonâ fide* servants of the buyer and other things; therefore it refers to almost anybody. If the Act was renewed without those clauses in it, it would be a great thing for the great body of the coalwhippers; they would have all the work among them, good and bad. Now, Mr. Cory having the best of the work, the other men get what they can, and the same with other large owners; they work large quantities.

630. Then the Act, according to you, would not prevent agents employing coalwhippers?
The first Act did not, and the Bill which I have seen would not: as long as the clause stands for *bonâ fide* servants of the buyer, or the owner of the coals, it would not do so.

631. Did you know anything about the state of the coalwhippers before the Coalwhippers Act was introduced?
Yes; I was a meter previously to that for many years. I have been about 40 years connected with the trade in one way or another.

632. How were the ships whipped at that time?
They were whipped by the same process; ever since I have known it they have been so whipped.

633. How were the gangs supplied?
Generally from the public-houses. Upon one occasion there was an attempt in the City to get undertakers to employ them, but the undertakers applied as labouring men; they were poor men, and it came back to public-houses again; at that time there were no *bonâ fide* men.

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634. The system of the public-house was very bad?
No doubt, in every way.

635. Bad for the employer as well as for the employed?
No doubt of it. The employer had hardly any control over the men. I have been on board a ship with a captain, and he has had a quarrel with the men, and been desirous to send them away. However, the publican has been the judge whether the man should be sent or not, and if the man was a good customer, he has been sent again.

636. What do you mean by "a good customer"?
If he would stay in the house and spend his wages, or allow a deduction to be made.

637. Therefore that system you would think very bad?
No doubt of it.

638. Do you think that if there is any reverting to that system it is to be regretted?
Very much indeed.

639. But you do not think that that system is likely to be reverted to?
I do not.

640. Do you know of any ships coming from Sunderland and the North which have employed public-house men?
I do not myself; but we will furnish the Committee with that information to-morrow.

641. Did you ever see the agreement which was entered into?
Yes.

642. You saw that the parties undertook that the whole trade should go to the office?
I saw that, and I believe it was their wish that it should be so, and they have been endeavouring to do so.

643. But that is not the case?
That is not the case exactly; but to a very great extent it is.

644. Lord *Stanley* of Alderley.] They never pretended to speak for the Welch trade, I suppose?
No.

645. *Chairman.*] But I mean the whole trade from the North?
There are not a great many exceptions.

646. Do you know of any complaints ever having been made from the committee to coalowners in the North?
Certainly; I have seen the letters which have been addressed to them, complaining of their breach of faith.

647. Not keeping the agreement?
Not keeping the agreement. I have seen letters in return, and had them, in which owners have found fault with their captains for not having done so; and I know that in many cases it is not the wish of the owners.

648. Do you think that blame is to be attached to the captain or to the owner?
There are some owners who have relations in London very badly off, and they themselves will break the rule. There are some few from Whitby and otherwise, but it is a few; the publican is the man who generally does it.

649. Lord *Calthorpe.*] During the time you were manager of the old office did you ever hear any complaints of the inefficiency of the gangs which you sent, through the difficulty of the ships procuring men to discharge their cargoes?
Repeatedly. I never had a difficulty in sending men to discharge them; I have always been able to catch the gang just at the time when it was coming ashore; but it was the inefficiency of old men who were allowed to remain upon the list.

650. And

650. And you had complaints about them?
Repeatedly.

651. *Chairman.*] Then if in any Act that was remedied, should you see any objection to having your office brought under the terms of the old Act, if you were not obliged to have inefficient men?
Not on my own part.

652. You think it would put an end to the practice of going to public-houses?
To a certain extent, but not effectually.

653. The shipowners have broken faith?
Yes; small shipowners having relations, have given the work to publicans.

654. Lord *Ravensworth.*] Was not one main cause of the evil existing in former days among the coalwhippers in the port of London arising from this fact, that in those days the shipowner was the sole importer of coals into the port. He bought the coals from the coalowner in the North, and it was his concern, and only his concern, in those days to discharge his cargo?
It was so.

655. Is it not now the case that the coalowner is responsible in many instances for the discharge of his cargo, and therefore has been able to enter into regulations for the benefit of all this body of men, which formerly he could not have done in the then circumstances of the trade?
He could not.

656. Is not that true?
That is the truth; there was not such control over the men.

657. Thus it is very desirable not to confound the distinction between coalowners and shipowners?
Yes.

658. Lord *Polwarth.*] What condition do you consider the coalwhippers to be in; is there a large portion of them not in that desirable condition which the coalowners of the North would wish them to be in?
Not in the office.

659. But is there or not a large portion of coalwhippers who are in that condition which you would wish them to be in; for instance, under claim to public-house keepers, and such like?
There are a great number of men at various other employments, and some few at public-houses; and those at the public-houses get badly paid, I believe; they do not get what they earn; they are not well treated.

660. You stated that there are about 1,100 or 1,200 coalwhippers?
Yes.

661. And that there are about 600 or 700 connected with the office?
Yes; 700 odd.

662. Then the remaining 300 or 400 are employed through public-houses, or other parties?
They are dispersed at this time of the year.

663. Lord *Ravensworth.*] Gas companies employ them?
The gas companies employ them in the labour to be done there; a great many of the labourers from the office went to the gas people.

664. *Chairman.*] Have there been any newly established gas companies since the Act has ceased?
Yes; there is a gas company which delivers by machinery over at Rotherhithe.

665. I mean a gas company employing these men who formerly were in the registered office?
I am not aware that there are any new ones. I do not know a single gas company but what now employs its own men, and your Lordships must be aware how much the work has increased with the consumption of gas.

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666. Lord *Portman.*] Do you want any alteration of the law to put the men in a better condition than they are in now?

I should like to see any alteration which could totally prevent their going to public-houses without making a monopoly; anything that would take them out of the public-houses.

667. Lord *Calthorpe.*] The provisions of the old Act to that effect would bring that about, would they not?

To a certain extent, not perfectly.

668. I understood you that under the old Act no publicans could employ the men?

Yes, they could; by evading the Act they did it; certainly the first consideration is, that if it is possible to do anything without making a monopoly in the trade, to save the men going to the public-houses; I should be very glad to see it.

669. *Chairman.*] You think that the present system is very injurious, as far as regards the public-houses?

No question of it. I have no doubt that things will soon get as bad as under the old system; I mean as far as the public-houses are at work.

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned till To-morrow, One o'clock.

Die Martis, 14° *Julii* 1857.

LORDS PRESENT:

Duke of Cleveland.	Lord Calthorpe.
Earl of Shaftesbury.	Lord Colchester.
Earl of Carnarvon.	Lord Ravensworth.
Earl Vane.	Lord Wynford.
Earl of Durham.	Lord Rossie.
Viscount Sydney.	Lord Portman.
Viscount Dungannon.	Lord Stanley of Alderley.
Lord Polwarth.	

THE LORD ROSSIE in the Chair.

Evidence on the Coalwhippers Act.

J. Sullivan.

14th July 1857.

JOHN SULLIVAN is called in, and examined as follows:

670. ARE you a coalwhipper?
Yes.

671. Where do you work at now?
I work at Gold's Hills at present.

672. Do you work at the Coalwhippers' Office?
I do, from the factors' office.

673. Can you state to the Committee what are the wages that you earn per day?
I earn 10*s*. per week.

674. That is when you are employed?
When I am employed.

675. Are you ever without work?
I am as often without as I am with it.

676. How often are you without work?
I am eight days and ten days without work; I never get less than a ship idle.

677. Do you know what they pay per ton for the unloading?
They pay us 7*d*., but we must not set the price ourselves; they set the price.

678. Who sets the price?
The officials at the office, or the factors, I do not know which; we must not sell our labour as we think proper; our labour is sold, and if we make a second contract, we may walk about our business.

679. You are not allowed to make a contract for yourselves?
By no means.

680. Did you ever make a contract for yourself?
They will not allow us; I had a ship, and I summoned the captain to the Thames police; I went on board, and did 119 tons, 116 tons, and 63 tons, in three days. The master asked me what was the wages; I told him I could not tell; I brought my blank paper; we have got a blank paper from this office; there

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there is only the ship's name, and where she lay, that is all; there are no figures to go by. He said he thought it would have been 8 *d.*, and I charged him 8 *d.*, if it was allowed, but I would be cut out of the office, and have to go to the degraded holes where I was before, the public-houses.

681. Did the office interfere with your contract?
I brought my paper to the captain, and he said, "I will give you 7 *d.*" and he put 7 *d.* upon my paper; I brought it to the pay clerk, Mr. Chapman, and he said to me, "I cannot pass your paper, Sullivan, unless you take 6 *d.*" I told him what the captain said to me. He said, "I cannot pass them." I said, "Then Mr. Yardley, at the police-office, he will pass it." And I went down to the Thames police-office, and took a summons against them, and the magistrate decided that I should get what the captain signed for me.

682. The office interfered with you to lower your wages?
Certainly; they would not take the paper unless I took 6 *d.* in the room of 7 *d.*

683. Did they employ you afterwards?
A letter came down to the Thames police-office, that John Sullivan was never to work for the model office any more; Mr. Foster's name was signed to the letter. I appealed to the magistrate, and I told him I should lose my bread through summoning them there. The magistrate said "No," and he told Mr. Barber to go and put me to work as I used, with my men; Mr. Barber said he was only a servant to the gentlemen, and I should go down before the Board. The magistrate said that I was to be employed, and they did not disturb me any more.

684. Do you work still for the Coalwhippers' Office?
Yes.

685. They did not strike you off the list?
They threatened to do so, and I suppose they would only for the magistrate.

686. Lord *Ravensworth.*] Are you in the capacity of a basketman?
I am, and have been for these 30 years.

687. That is the head of the gang which is engaged?
It is the head of the gang from the public-houses, at the office under the Act of Parliament, and under this office now.

688. *Chairman.*] You can only take the price which they think proper to give you?
Yes.

689. You could have got 7 *d.* in the case which you have mentioned?
I did get the 7 *d.* by the master signing for it.

690. The office wanted to strike you down to 6 *d.*?
That is the reason I summoned them before the magistrate.

691. Lord *Calthorpe.*] You say that your wages are 10 *s.* a week?
Yes, they are; I will be on my oath.

692. Is that since the expiration of the Act?
Yes, since this office commenced.

693. What were your wages before?
My wages before were 15 *s.*, 19 *s.*, and 1 *l.*, during the time of the Act of Parliament.

694. Viscount *Dungannon.*] How came it that your wages were so much more during the time of the Act of Parliament?
Because we had 8 *d.*, and we had 9 *d.* if we had Welsh coals; now we will only get 7 *d.*, because they are transhipping them by a winch in the London Docks. There is the "Liverpool," belonging to Mr. Marshall, and they will not give a farthing more than 7 *d.* We went to the factor, and he said "No." He says he has two applications to work them for 6 *d.* A middleman steps in, and he says, "I will do it for 6 *d.*" They give 5 *s.* a hundred, perhaps, for all they are doing.

695. Used

695. Used you to make your own bargain during the time that the Act existed?
No, by no means.

696. Could you do so after the Act expired?
We had an Act of Parliament; and we were quite satisfied with 8 *d.* or 9 *d.* a ton; and it is not a fraction too much among so many.

697. Could you make your own bargain then: you say you cannot now, and you must take what the office gives you. Were not you compelled, before the Act existed, to take what they chose to give you: could you make your own terms if you did not like the terms that were offered?
If they did not think proper to give me higher terms, I could let it alone; I need not take it; I was at liberty to do it if I liked; I am not at liberty to do so now.

698. You were at liberty before the Act expired?
Before the Act expired I was at liberty to refuse, if I did not think it sufficient to pay.

699. In cases where you did not think it sufficient to pay, you had a good prospect of securing your own terms?
Yes, I had.

700. *Chairman.*] How?
Because the Act protected us. Sometimes the purchaser or the shipowner would interfere; and he had liberty to do so by the Act. If he could make an agreement to do the work, the master would come to us, and offer to give us those terms; and if we would not go, it was quite regular enough.

701. Lord *Calthorpe.*] How many men are there at the office?
About 84 gangs now.

702. Lord *Ravensworth.*] That is somewhere about 700 people?
Yes.

703. *Chairman.*] Were you employed yesterday?
I was.

704. Were all the men employed at the office yesterday?
There were 40 gangs idle.

705. A witness has stated to this Committee that the whole of the men were employed yesterday; is that the fact?
No. There are six witnesses who can take their oath that there were 40 gangs standing idle.

706. The Committee were distinctly told that the whole of the men were employed yesterday?
They were not.

707. At what time of the morning were they unemployed?
At 11 o'clock there were 31 gangs out; and the remainder got out afterwards.

708. Viscount *Dungannon.*] Do you mean yesterday morning?
Yes.

709. Lord *Colchester.*] You say that the men work for 6 *d.*, and that it was formerly 7 *d.* a ton?
Yes.

710. How much more per day did that make?
It made half-a-crown to us, in working a ship.

711. Each day?
No, in working the ship.

712. You state that you earn 10 *s.* a week?
I do.

713. How much per ton do you reckon that is?
I do not suppose it would amount to 6 *d.* a ton.

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714. If the charge were 7 *d.* a ton, how much additional would that make to you in the course of a week?
I dare say it might be 4 *s.* 6 *d.*

715. Every penny a ton additional would make about 4 *s.* 6 *d.* a week to you?
According to the size of the ship.

716. Lord *Wynford.*] Each gang works only 49 tons a day, does not it?
We must work both day and night if they think proper.

717. *Chairman.*] You cannot work less than 49 tons?
We cannot work less than 49 tons. If we do not do the coal to-day, we must bring up the loss the next day, and then we must do 98.

718. That has been the rule?
Yes, that has been the rule.

719. Viscount *Dungannon.*] Are you settled with once a week, or daily, or how?
Once a week; we are not weekly men, or anything now.

720. *Chairman.*] Are not you paid once a week?
Yes, once a week.

721. Are you paid at the end of the job?
No.

722. The Committee were told by a witness that you were paid at the end of the job?
No; every Saturday night we are paid, or on Wednesday. If we get out before Wednesday, we get settled on Wednesday. There are only two pay days in a week.

723. Lord *Calthorpe.*] When are you paid?
When we get out of the ship.

724. *Chairman.*] Where are you paid?
In the office, once a week, every Saturday, and provided we get out before Wednesday, we are paid on Wednesday again; we are settled with twice a week.

725. Viscount *Dungannon.*] What do you mean by provided you get out of the ship?
If we clear a ship on Monday or Tuesday, then they settle on Wednesday again with us.

726. Lord *Ravensworth.*] If you clear your ship on Monday or Tuesday, do you get paid on Wednesday?
On Wednesday. If we get out on Thursday, we do not get paid until Saturday; and if we get out on Monday, we must wait until Wednesday to get paid.

727. Duke of *Cleveland.*] I understand you to state that the men taken from the office have two pay days in the week?
Yes; on Wednesday and Saturday, in the room of settling when the job is finished.

728. Viscount *Dungannon.*] That depends upon when you get out, as you say?
If we get out on the Monday, we are settled with on the Wednesday.

729. If you do not get out till after Wednesday, you are not settled with till Saturday?
Yes.

730. Lord *Ravensworth.*] I believe the gangs wait at the office, and are taken in their regular turn, are they not?
They are taken in regular turn.

731. With respect to the case of which you have spoken, where you had an agreement for 7 *d.* per ton wages, and you went to the office to ratify that

that agreement, they told you that you must do it for 6*d.*; did not you state that?
I did, and I am ready to state it again.

732. I suppose that if you had refused to do it for 6*d.* the next gang after you would have been called up, and they probably would have done it for 6*d.*?
I had the ship finished this time.

733. Under that bargain?
Yes; the master signed 7 *d.* for me, or else they would never have given me but 6 *d.*

734. You got that 7 *d.* did you not?
Yes, by summoning them.

735. *Chairman.*] By going before the police magistrate?
Yes, and compelling the committee to pay me.

736. Lord *Polwarth.*] Do they pay you 6 *d.* to discharge the coals from screw steamers, as well as sailing ships?
For sailing ships 7 *d.*, and for screw steamers 6 *d.*, because we must work day and night at the screws.

737. *Chairman.*] Can you state to the Committee how it is that larger wages are earned for unloading screw ships?
Because they do more work; perhaps 250 tons a day, when we do not do above 98 or 105 in a sailing ship; we are not allowed to do it.

738. Lord *Ravensworth.*] Is not that work done by picked men?
They must be picked men; they are at it day and night.

739. In fact it is done by the strongest and best men?
Yes.

740. Viscount *Sydney.*] When you work day and night, do you get more pay?
Less pay and more hours.

741. *Chairman.*] In this case to which you have referred, was it a screw ship or a sailing ship?
A sailing ship, called "The Nancy."

742. Lord *Polwarth.*] You made a bargain with the master, you say?
I did; the master asked me what I had to go by; I told him I had a note with 8 *d.* "Well," he said, "I have heard some say they were only paying you 7 *d.*, I will give you 7 *d.*" I was frightened to make a second bargain.

743. You did not make that bargain through the office?
No.

744. Duke of *Cleveland.*] Did you sign an agreement for the 7 *d.*, or was it only by word of mouth?
I had no figure to sign for at all.

745. *Chairman.*] The man filled up the paper?
The clerk filled the paper up.

746. We have been told that the average earnings of coalwhippers in unloading screw steamers is 17 *s.* 6 *d.*, and that the average is 13 *s.* 6 *d.* for sailing vessels; is it by extra hours that that average of 17 *s.* 6 *d.* is obtained?
Most undoubtedly, by day and night work.

747. You have said that you do not, for unloading sailing vessels, earn 13 *s.* 6 *d.*?
I do not; but there might be some of our gangs more fortunate than other people.

748. Generally speaking, the coalwhippers do not earn 13 *s.* 6 *d.*?
They might, some of them.

749. Not generally?
Oh, dear, no.

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750. Earl *Vane.*] Were not you aware that there was a public notice at the office that the work would be done at a lower rate?
I was aware, but not by steam-boats. When Mr. Barber came, and there are plenty to prove it besides me, he says, "I do not meddle with any sailing vessels, or any coals but gas coals." That will be only steam coal that will be 6 *d.*; house coal will be 7 *d.* and 8 *d.*, when that notice was put up; there are plenty to prove it besides me.

751. What was said in the notice?
"Sixpence for steam coal and 7 *d.* for house coal." There was none less than 8 *d.* a ton at that time when the notice was put up.

752. *Chairman.*] Under the operation of the old Act, what was paid for steam-vessels?
We had none of them in being.

753. Viscount *Sydney.*] Do you mean to say there were no steam-vessels previously to the last Act?
No steam colliers.

754. Previously to last August?
We had none of them, to my recollection.

755. *Chairman.*] You had not been employed in any steam collier?
No.

756. Lord *Calthorpe.*] Can you give the Committee any idea of the proportion of men that are employed through publicans?
I should say myself, at the time we were scattered away, there were about 300 or 400, or more than that; I should say 500 men go out of the public-houses, butchers' shops, grocers' shops, and every kind of place.

757. Out of 1,100 men, you suppose that about 400 are employed by publicans?
Yes.

758. Viscount *Sydney.*] There is less work than there used to be, is not there?
Yes, a great deal.

759. To what is that owing?
There is less work with us, because the ships are scattered about so.

760. Has not the steam machinery made some difference also?
Not such a great deal. The publicans have got some, and the grocers have got some; everybody has got some; so that they are scattered about in every direction now.

761. How many ships do you suppose unload by steam machinery?
I cannot say; I see going into the Regent's Canal about 15 or 16 a day.

762. Of course that must diminish the work?
It does.

763. It is not the expiration of the Act, but rather the introduction of machinery which has made a difference in your work?
The machinery does not make such a difference; if we could have an Act and 8 *d.*, we could live as comfortably as ever we did; if we do not have an Act, we shall be the white slaves of Wapping; that is what we were called 30 years ago, and we shall be the same now.

764. Viscount *Dungannon.*] Have you ever been employed from a public-house?
No, not since we had an Act of Parliament.

765. Have you been employed from a public-house since the Act expired?
No, I was before the Act; I was always in a public-house.

766. Lord *Polwarth.*] Have you taken work from any private parties?
No.

767. Except through the office?
No.

768. You

768. You have mentioned a case in which you made your own bargain?
I got a paper from the office.

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769. Viscount *Dungannon.*] In that case you made your bargain with the captain?
Yes; I had nobody else to make a bargain with.

770. You made a bargain for 7*d.*, instead of 6*d.*?
Yes.

771. Who did you summon to the police court?
I summoned the captain; the captain pays the money. I asked the magistrate, and he said the man that pays the money, that is the man to summon.

772. When you applied to the captain, did he want to pay you only 6*d.*, instead of 7*d.*?
No.

773. How came you to summon him?
Because the money was to go through the office to deduct a farthing out of every shilling; the gear-money, 7*s.* 6*d.* for every ship, for the hire of tackle, must go into the office, and if I took money outside, I must go out.

The Witness is directed to withdraw.

Mr. MATTHEW HUTTON CHAYTOR is called in, and examined as follows:

774. Lord *Stanley* of Alderley.] WHAT is your employment?
I am a colliery owner and a coal-factor. I am connected with the General Iron Screw Collier Company. I am also a member of the coalwhippers' committee.

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775. Have you a practical knowledge of the system which existed during the operation of the Act, and of that which has taken place since the establishment of the office?
My experience commenced with 1846; at that time the office was established.

776. Will you state to the Committee the objections which you felt to the existence of the system under the recent Act?
The objections that I entertained, as a coalowner, were these: that the office established by the Act of Parliament was the means of providing us labour at an amount greater than we could have got it for in the open market, and that labour of a very inferior description. Any man could be employed who asked to be registered, and the class of men employed were not equal to the work which they had to do.

777. You considered that you paid more for the labour that was done for you than you could get it done for in the open market?
Certainly.

778. And the labour was of a very inferior description to that which ought to have been supplied to you?
Yes.

779. Lord *Ravensworth.*] You were also compelled to take it?
We were, in a measure, compelled to take it; it was not absolutely imperative. Men could have gangs of their own under certain conditions, but the mode of working it was so complicated, that it was hardly possible to do the business without taking gangs from the office.

780. Lord *Calthorpe.*] Had not you the option of making a selection from the registered men?
They gave you a gang in turn upon applying at the office, and you could not object to them.

781. *Chairman.*] I suppose the shipowners did employ others than those who were registered at the office?
The shipowner could do so only by evading the Act; the merchants could do

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do so if they liked, by employing their own servants; that is, men whom they had made servants.

782. Viscount *Sydney*.] That is to say, they must have been six days in their employment?

Yes.

783. *Chairman*.] Was the Act adhered to, so far as your knowledge enables you to say?

I am not aware of any evasion of it personally; it was commonly supposed to be evaded constantly.

784. You understood that it was evaded?

Yes; that is, the meaning of the word "servants" was rather stretched.

785. Lord *Stanley* of Alderley.] That provision was used to a considerable extent, was it not, by some shipowners and some colliers and factors?

I do not know it of my own personal knowledge; I have heard it said that it was so.

786. Lord *Colchester*.] You have stated that the office increased the price of labour; were you obliged to give such a payment as the office fixed?

Not exactly; if you could get men of your own to substitute for the office men.

787. If you went to the office for a gang?

If you took an office gang, you must pay the price fixed by the office.

788. *Chairman*.] Were you engaged in the coal trade before that Act came into operation?

I was not myself; I have been engaged in the trade as a coal-factor both in London and the country; I was not in London at that time.

789. You do not know anything about the price paid per ton before the Act came into operation?

I know what it was since.

790. Earl of *Carnarvon*.] What was the average price per ton?

I may mention that I am a partner in a company which erected nearly the first steam machinery that was erected in London for the purpose of discharging coals, and at that time the office price was 9 *d*. per ton; by our machinery, excluding the interest of capital, it cost 4½ *d*.

791. Lord *Stanley* of Alderley.] Was that steam machinery applicable to discharging vessels lying in the river, or only to vessels in dock?

Only to vessels in docks, or at wharves.

792. From your knowledge of the coal trade, has the number of vessels increased that have been unloaded in the river since the year 1844?

Very considerably diminished.

793. Has that been in consequence of the application of machinery to vessels which have unloaded in the docks?

Principally; and greatly in consequence of the number unloaded at docks and wharves.

794. Are the ships which are unloaded at wharves mostly unloaded by gangs belonging to individuals, or by gangs belonging to the old office?

The ships unloaded at wharves are unloaded by men not belonging to the office, inasmuch as the coal-merchant at the wharf had his own men to do the work without any evasion of the Act; therefore, ships unloaded at the wharves, have been almost entirely unloaded by men provided by the merchant, and not by the office.

795. Has the tendency been to increase the number of ships unloaded at the wharves, and by machinery; and to diminish the number of those unloaded by the coalwhippers?

From the increase of machinery, naturally the quantity must have been increased to find it work.

796. The

796. The quantity of coal imported into the river has not increased with the increase of the machinery which is used in unloading it?

No; in 1846 there was only one machine in the river for discharging vessels. In 1846 our own was erected, and since then there has been machinery erected at Blackwall in the Poplar Dock Basin; in the Limehouse Basin; at the Brighton Company's Wharf, by the South-Eastern Company; and there are one or two private wharves at which machinery has been erected; all those have been erected since 1846, and some of them are calculated to discharge very rapidly a very extensive quantity. At the Limehouse Basin and Poplar Dock they have four or five machines, which are capable of discharging at the rate of 200 or 300 tons a day each.

797. Can you state the price which is paid for unloading at those wharves and docks?

The price paid by the shipowner (who pays the cost of discharging) is the same as the price charged at the office; the difference is the profit to the person who erects the machine. If the office charges 6 *d.* or 7 *d.*, the shipowner pays the same price, and the profit goes to the owner of the machine. The price charged by the office regulates the price of labour almost entirely in the river; the owners of the steam machinery charged the same price that was charged under the old Act, or charge the price that is charged now; if they can do it for less, that is their profit for erecting the machine.

798. Can you inform the Committee of the effects which, in your opinion, have been produced by the establishment of the new office; have they in any degree removed the evils of which you complain which existed under the former Act; and are you cognizant of any inconvenience which has resulted from the establishment of that office?

As a coal-factor, necessarily the complaints of any inefficiency in discharging the vessels comes to our office; that is where the captains come to settle their freights, and we are sure to hear if anything goes amiss. I have the opportunity of hearing through the Coalwhippers' Office of what complaints do arise; I have the best means of knowing; and since our office has been established, those complaints have almost entirely ceased that used to exist during the continuance of the Act. The men we employ are of a better class, and gradually the inefficient hands have been reduced, and the class of men now employed are of a superior description.

799. Lord *Colchester*.] When you speak of complaints, you mean complaints on the part of the employer?

Yes; I understood the question to refer to those complaints.

800. Lord *Stanley* of Alderley.] Can you inform the Committee what has been the amount of wages obtained by the coalwhippers that have been furnished by your office in comparison with the wages which they obtained under the former office?

The accounts will be handed in, which will give the Committee the exact average.

801. Are you sufficiently informed about the matter to state whether the wages that have been earned by the men are more or less than the wages which were earned under the former office?

I would rather leave it to exact information from the accounts.

802. Can you inform the Committee whether a shipowner has been able to unload his coals at a lower rate than he unloaded them previously by the men furnished from the former office?

Yes.

803. What is the difference in price?

From 8 *d.* and 9 *d.* to 6 *d.* and 7 *d.* per ton.

804. Is there generally sufficient employment for the persons you have at your office, or are there generally more gangs at your office than there is work for them to do?

We are obliged to keep a surplus of labour; we are obliged to have always as many gangs as can find employment, the arrival of ships is so uncertain and irregular;

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irregular; therefore we have a surplus of labour; if we had not, there would be great obstructions in the river.

805. It was stated by Mr. Foster that such was the demand for labour yesterday, that every person upon your list was employed; is that the fact?

I do not know it of my own knowledge. The employment is necessarily very irregular, because the arrival of ships depends upon the wind and tide; sometimes the ships arrive in a lump, and sometimes only one or two together.

806. From your own experience in the trade, do you think that any large number of gangs of men are now taken from the publicans, and is that practice on the increase, or on the decrease?

As far as the information which we can obtain through the office goes, the number of publicans finding men to discharge ships is not on the increase, so far as we can judge from the returns.

807. Do you apprehend that there is any great danger of a recurrence of the evils which existed previously to the former Act if the present office is continued?

I cannot imagine that there can be any danger of it; the men themselves have an opportunity of coming to seek employment without going to public-houses. If they go to public-houses, they go there voluntarily; my belief is, that the class of men who do go to public-houses, would not be employed by the office, in consequence of their intemperate habits. When our office was established, we took the whole of the men over from the old office, being desirous of acting cautiously, and doing injustice to none of them; the numbers have been gradually reduced by discharging the inefficient men, those who are not sober and steady, bringing them more in accordance with the wants of the trade, that is, both as to number and as to efficiency; I am myself a director of the Iron Screw Collier Company. During the existence of the old office, the men were incapable of doing our work, and we had to provide gangs of our own, which we did provide. Since the office has been improved, I have been instrumental in taking our work to the office, and the office-men now discharge all our ships. I had the greatest difficulty in getting that done, because our superintendent complained to us continually that the office-men were totally incapable of doing such labour; it was not till several remonstrances had been made by me, that the class of labour employed in discharging the screw colliers was improved. Now we have no complaint at all made, and they do their work as well as any men.

808. Is it the fact, that all the coalowners in the north of England have agreed to support the office as far as they can, and to require that the coal shall be whipped by servants taken from the office, and not from publicans or from other sources?

Their wishes have, in fact, been entirely in that direction; in some cases they have made it a condition in their charters that the ships should be discharged through the office: it is a stretch of authority perhaps on their part, because hitherto it has been the duty of the shipowner to provide labour for discharging his own vessel: they have been anxious to carry out the agreement which they made with Parliament, and they have endeavoured, by all means in their power, to bring work to the office.

809. Are there many instances in which the masters of ships have evaded the known wishes of their employers, and have engaged gangs at public-houses, from private motives?

There are some few instances.

810. Can you state to the Committee any means by which the coalowners in the North can enforce their wishes when they are disposed to take men from the office, and not from publicans and other sources?

It appears to me that the best way would be to make it penal for publicans to be engaged in finding labour for the discharge of vessels, and for captains going to public-houses to settle with their men.

811. I think the coalowners engaged that wages should not be paid at public-houses; I should be glad to know from you whether that engagement has been fulfilled, that no wages should be paid to any gangs at public-houses?

It has been fulfilled to the letter so far as our office is concerned. You heard

heard from the last witness that he was obliged to go before a magistrate to settle a freight from the office; we compel all the men to settle their freights in the office, for two reasons: in the first place, if there is to be an office, there must be rules laid down for its guidance; if the men are to go and make bargains for themselves with the shipowner, there can be no regularity in the office. The reason why all the wages are settled in the office is, that we may be certain that they are not taken to public-houses; the captains settle with us, and there is no necessity for the men being taken to a public-house for settlement: it is for the protection of the men that we require it to be done.

812. Viscount *Dungannon.*] Did you hear the statement made by the last witness that the master of a vessel offered to give him 7 *d.*, and the office wanted to reduce it to 6 *d.*?

I heard that statement. When the office was established, the rate of wages was taken that was then in existence; the reduction has invariably been from without: there is no doubt it has partially caused by labour to be removed from the office: we adopted that high rate at first, but it was perfectly easy under the system of free competition to get the labour done at a cheaper rate; many men were ready to engage with any person outside at that cheaper rate, and the reduction has been in our office after that reduction outside. The rate of wages being then reduced, this man went on board, and he made a bargain contrary to the bargains sanctioned by the office, and contrary to the bargain generally agreed upon by all the men, who had given their consent to this reduction. When we found that he had been engaged for a larger sum, he was sent for before the committee, and the only punishment he received from the committee was, that he was reprimanded, and told he must not do it again; the office could not be so conducted.

813. Did you hear him state that he summoned the captain before a magistrate?

I did.

814. And that it was awarded by the magistrate in his favour?

I apprehend there could be no other decision.

815. Did that fall upon the office or the captain?

The captain.

816. The captain took the consequences of what he had done with respect to the office?

Yes.

817. *Chairman.*] You have stated that you are aware that some of the shipmasters or captains of vessels have not fulfilled the agreement which was entered into by the coalowners and shipowners in the North of England?

The agreement entered into with Parliament was principally by the coalowners. The body of shipowners numbers perhaps 400 or 500, and it must be perfectly clear to your Lordships that the agreement could not bind all these men.

818. Do you know any instances in which any coalowners have not fulfilled the agreement?

No, not one.

819. The shipowners, you say, are bound by the agreement?

The shipowners contend that they are not bound, nor can they be bound by the agreement.

820. So that it is only the coalowners who hold themselves bound by that agreement?

The parties who subscribed to that agreement are those who hold themselves bound by it.

821. Are there any shipowners who subscribed to the agreement?

Some of those gentlemen are shipowners; Mr. Allcock is a shipowner, and Mr. Wawn is a shipowner.

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822. What do they mean by saying, "These resolutions contain, it will be seen, a distinct undertaking on the part of the whole trade to support the proposed office, and to furnish funds necessary for its establishment;" what do you understand by the "whole trade"?

I understand by the signatures that are appended to this document, that those who are principally interested in carrying on the trade represented themselves as the trade.

823. As the whole trade?

As the whole trade.

824. Then they do not represent themselves fairly?

Here are the representatives of the largest collieries in the North.

825. What is the meaning of the words "whole trade;" is that the whole trade in coal, or only the parties signing this agreement; what is your understanding of that?

The signatures to this agreement are those of gentlemen representing the largest interests in the coal trade.

826. Then it should have been the larger part of the trade, and not the whole trade; they have no means of controlling the whole trade, and therefore they should not have guaranteed the whole trade?

I presume they should only have guaranteed for themselves; no man can answer for anybody but himself.

827. Was not this agreement called for by the House of Commons to satisfy the minds of the coalwhippers that they were to be protected as they had been under the Act of Parliament?

Yes, certainly; and I apprehend that they do so. I apprehend they have done as much as they possibly could do; they have given the men the means of finding employment in coalwhipping, without having recourse to public-houses; and if the men do not choose to come there to seek employment, they cannot help it.

828. Does it always depend upon the men; do not the captains of the vessels employ agents?

Clearly.

829. Either public-house keepers or others to select gangs?

It is done by the captains of the ships occasionally.

830. Then how does it depend upon the men?

Because the men need not go there to be hired if they do not like it.

831. You say that you have endeavoured to diminish the men who have been registered by you at the Coalwhippers' Office; how are the others to get employment?

There is a surplus to be employed; and if you make any kind of enactment you choose, there will remain that surplus labour; it is impossible to employ the whole of those who seek employment in that way.

832. In short, in your opinion, it is impossible to force the whole trade to go to this office?

It is impossible to find labour by any office.

833. Is it possible to enforce, as stated in that agreement, that the whole of the coal trade should go and employ that office to provide men for unloading their coal?

I do not apprehend that it is possible to do it except by legislative enactment, and then I maintain it is unjust.

834. Lord *Stanley* of Alderley.] Do not you think it would be unjust to compel people to employ labour from one particular source, when they can employ better labour from another source?

I look upon it as a species of socialism; the system adopted by the old office led to a diminutive species of socialism: men could not get employment according to their value, and they were compelled to be employed with men who were not

not equal to them in physical power, and not able to earn as much wages; consequently the inferior man became the measure of the power of each gang.

835. *Chairman.*] Do you know of any case under the old Act in which, if a gang were complained of as being inefficient, the parties applied for a more efficient gang?
I do not.

836. You do not know that there was that power under the Act?
I do not know. I heard Mr. Barber, the registrar under the old Act, when he was examined yesterday, state that when he applied to the Commissioners to remove a man, they would not do it. I do not know that of my own knowledge.

837. You have stated that in unloading your steam-vessels, you are regulated by the price paid at the office?
Yes, in unloading by steam machinery.

838. I think you stated that the office price depended upon the competition in open market with those men who were employed by agents, or from public-houses?
At present it does.

839. That was not the case under the old Act, was it?
No, that was not the case under the old Act.

840. You never heard the price before the old Act, and after?
No.

841. Do you know of any case during the operation of the Act, in which the price paid was reduced?
Yes, it was 9 *d.* and reduced to 8 *d.*

842. Was that voluntary, or how was it arranged?
It was done by the office themselves.

843. So that the office had the power then to lower the price at which the men were to discharge coals, when the state of the trade demanded it?
Clearly.

844. And now the office only lowers the price according to the state of competition?
Precisely, which I apprehend to be a healthy state of things.

845. Lord *Stanley* of Alderley.] Has any steam machinery been introduced into your screw colliers for the purpose of whipping the coals?
One vessel belonging to our company has had machinery introduced into it this last fortnight. It was tried for the first time last week.

846. Was it found to answer?
That particular trial was unsatisfactory, but it has answered in other cases; we have vessels coming to London discharged by machinery, and I know of others that do not belong to us.

847. Is it your opinion that machinery may be so adapted as to do the duty of coalwhippers in the steamers?
Yes.

848. Lord *Calthorpe.*] Have you any idea of the proportion of coals which are now imported into London, which are whipped by machinery?
I do not know.

849. Must not the whipping of coals by machinery, as a matter of course, reduce the wages?
No; the effect of the employment of machinery is not to reduce the price at all, as I have already explained to the Committee; the difference of the cost is put into the pocket of the person who erects the machinery; it is rather an advantage to the owner of the machinery that the wages should be high.

850. Lord *Polwarth.*] Machinery has not yet come into competition to reduce the price?
It may in the end come to that, but it has not been so yet

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851. Lord *Calthorpe.*] Do you conceive that it would be an advantage to the coalowner and the shipowner that this competition should go on between the office, the publicans, and the other agents, so as to reduce the rate below that at which the men can afford to live?

It is impossible that it should do that; if the men could not live, they would die off; if you carry it *ad absurdum*, they would not be there.

852. In the meantime what is to become of those men?

They are subject to the same chances of employment that all other men are; there ought not to be any exception made in the case of any particular class.

853. Do not these men reside principally upon the banks of the river?

Yes.

854. Are they not, therefore, to some extent dependent upon this employment?

Not necessarily; they seek this employment, and they go there to seek it.

855. Lord *Stanley* of Alderley.] Are not coalwhippers employed in the docks as labourers, and in some other occupations of the same description?

Yes; at the present time they go out harvesting, and many of them are employed in other work up and down the river, besides coalwhipping.

856. Lord *Colchester.*] I understood you to say that this arrangement is acted upon by a great part of the north-country trade?

Yes.

857. Is it acted upon by the Welsh coalowners?

I do not know of my own knowledge; but I understand that the Welsh coalowners principally discharge their cargoes by their own crews, which is the universal custom on the coast.

858. You cannot state in what proportion the coalwhippers are employed by ships in the Welsh trade?

I apprehend very few indeed.

859. Not to your knowledge?

Hardly any; I am not connected with the Welsh coal trade.

860. I think I understood you to say that you would think it desirable to make it penal by Act of Parliament for publicans to provide men as coalwhippers?

I apprehend that is the only course.

861. And that no wages should be paid at public-houses?

Yes.

862. Would not that be to some extent interfering with free trade in labour?

It would to a certain extent, but complaint is made that the men are compelled to go to public-houses.

863. Then I understand that it is a case, more or less, of interference?

It is more reasonable that you should prevent their going there than that you should fetter a large trade, who are not to blame for their going there.

864. Lord *Ravensworth.*] With regard to the general result, you stated that the rate of wages of the coalwhippers had been reduced from the average of 8 *d.* or 9 *d.* a ton, to 6 *d.* and 7 *d.*, did you not?

Yes.

865. Do you think that the rate of wages is now likely to continue at about that level?

I think if labour be not interfered with, it is likely to continue.

866. Will you state explicitly to the Committee the reasons which, in your opinion, have led to that range of wages being now established?

The reason which has led to that rate of wages being established is, that there is a free competition for labour. A man may go to any place to get his labour, to discharge coals where he chooses; consequently, competition has arisen for the work. I have reason to know that I could easily obtain

labourers

labourers for discharging coals in the country, out of London, at all times, at 6 *d.* per ton.

867. I think you have stated, as an additional ground for that range of wages being established, the quantity of machinery now employed at the different docks and wharves for the discharging of vessels?

It has induced competition, but it has not reduced the price. It is the interest of the owner of the machinery to keep the price up; the shipowner pays him, and the more he pays the better it is for him; but it has this effect, undoubtedly, that it displaces a very great number of coalwhippers. The consequence is, that those men are thrown upon an already overcrowded market. I have named to your Lordships that the increase of machinery is very extensive. I did not tell you a circumstance, which I should also mention; that machinery is being erected, and brought into operation in the Victoria Docks. One gentleman, whose name has been mentioned to you, is just going to bring into operation a steamer of 1,500 tons, to bring coals from the north of England, to be discharged in that dock. The effect of that steamer will be to displace 200 colliers. She will bring, from the number of voyages and the increased capacity, as many coals as would be brought by about 200 ships. Many of those ships, at any rate, are now discharged by whippers, and when this machinery is at work, those whippers will be displaced, and they will be thrown upon the labour market.

868. Lord *Stanley* of Alderley.] You consider the effect of the introduction of machinery to be this, that there is less coal to be whipped, and yet the same number of men remain in the market as coalwhippers?

Yes.

869. And consequently competition is greater, and the wages fall?

Yes.

870. Is it your opinion that the tendency is still further to introduce machinery, and still further to cut down the market, and still further to lower the wages of the coalwhippers?

The tendency of machinery is to increase first of all, because the work is better done and cheaper done.

871. Lord *Polwarth.*] How long do you expect the wages given at the office to regulate the price per ton of ships that are to be unloaded by machinery?

So long as the office discharges so many ships, it will regulate it to a certain extent. The time will come when it will cease to regulate the price.

872. You think the time is not very far distant when the office will cease to regulate the price at which ships will be unloaded?

Precisely.

873. Viscount *Dungannon.*] Do you think, looking at the present state of things, at the price of provisions, that the wages given to coalwhippers are such as they can manage to live upon?

If they can get constant employment. It is not a question of low price, but it is because they cannot get sufficient employment.

874. Lord *Stanley* of Alderley.] In other words there is surplus labour?

Yes. If you could keep the men employed at 6 *d.* a ton, they could earn very large wages. Your Lordships have had it given in evidence, that a gang of men can discharge 20 tons an hour.

875. Lord *Polwarth.*] You cannot give the Committee any information as to the average amount of wages that the men are obtaining per week at present?

A statement will be laid before the Committee to-day.

876. *Chairman.*] The rate of wages, you said, was lowered during the existence of the old office?

They were lowered.

877. You think that that would have been the case if the office had been continued, and that they would have been still further lowered?

I do not think so.

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878. Earl of *Carnarvon.*] I understood you to say that you would consider it, in the abstract, desirable to make the supply of labour by publicans penal; or do not you go so far as that?

I said that it would be more reasonable that you should punish those who did what you considered to be wrong, than punish a large and extensive trade by making them seek labour where they do not want it.

879. Do you in any degree approve of such an interference?

My feeling goes in favour of leaving labour free and unfettered.

880. Do you consider that the supply of labour through publicans involves any evils?

Yes.

881. What are those evils?

Drunkenness, and its concomitant evils. No doubt it leads to an increase of drunkenness. The men employed by the publicans are obliged to spend a great portion of their earnings at the public-houses.

882. Has drunkenness diminished since your office has been established?

No. I do not think that has much to do with it. They are thirsty souls down at the East end; and whether they get their wages in money or in beer it does not much matter.

883. You think that the system of supplying labour by publicans has increased the amount of drunkenness?

Some of the men are compelled to spend a part of their wages in drink; in our office they are not so compelled; they get their wages given them in money, without the necessity of going to a public-house.

884. Viscount *Dungannon.*] Is it not the object of the publican to compel the men to spend a part of their wages in drink?

Yes.

885. Lord *Wynford.*] Was it not the object of the old Act to prevent the men going to public-houses to be employed at public-houses, and being paid in public-houses?

That was the object of the old Act. You must remember that the state of the trade was very different then, from what it is now. At the time when the old Act was enacted, the shipowner was the purchaser of coals from the coal-owner in the north; he brought the coals to market for sale; and here he had his friends in the public line, and he sent his ship to them to get discharged. In fact, you will easily understand that an isolated shipowner has not the same means of organising labour that a large colliery-owner has.

886. Lord *Stanley* of Alderley.] Was not the establishment of the old office to secure to the coalwhippers the price at which they might be engaged, without the intervention of the publicans?

Yes.

887. Has not the present office been since established, to offer the same opportunity to the coalwhippers to get employed, without the intervention of publicans?

Yes.

888. Is it your opinion that the present office affords all that is necessary for them to escape all the evils concomitant upon engagement by publicans?

Yes.

889. *Chairman.*] How does that answer correspond with the answer which you have given, that you desire to diminish the number of men who are registered at the office?

I have already explained that the introduction of steam machinery has greatly reduced labour.

890. Viscount *Sydney.*] And also that you have got rid of the worst men?

Yes.

891. *Chairman.*]

891. *Chairman.*] If only a limited number of men can be employed by the office, the other men must give up that employment, or seek it through agents or others?

We cannot find work for men for whom there is no labour.

892. It was stated yesterday that about 82 gangs were employed at the office?

Yes.

893. Are there not other men employed in whipping coals besides those who are employed at the office?

Certainly.

894. If you do not increase the number beyond 80 gangs, how are those men to get employed?

They are employed by Mr. Cory and others, who are not publicans, and that competition has reduced the wages.

895. Lord *Calthorpe.*] According to your account there is distress amongst the coalwhippers now; is not that distress likely to increase from the extension of the introduction of machinery?

Certainly. If your Lordships wish, I should be glad to give information as to the mode in which the committee have carried out their engagements with Parliament to find accommodation for the men; I shall be glad to explain what the coalwhippers' committee have done towards their comforts, and the arrangement of their employment.

896. Lord *Stanley* of Alderley.] I think you said that in the present state of things the tendency was to increase the employment of machinery?

Certainly.

897. If the wages of coalwhippers were raised to the former sum, would not that tendency be additionally increased?

Yes.

898. So that the effect of any undue raising of wages beyond that which the labour market might fairly require, would be to establish machinery, and to drive more vessels to be whipped by machinery than are at present so discharged?

Certainly. The coal trade, or those who signed this agreement, undertook that they would provide the means for the men getting engaged without having recourse to public-houses: they also engaged to advance a sum of money towards this object. The trade advanced a sum of money, 500 *l.*, which they undertook to advance, and the present committee have made themselves responsible for an additional 1,000 *l.*, for the purpose of providing the men with a proper room, in which they can at all times wait, so that there is no excuse, from want of shelter or warmth, for their going to public-houses. This room, where they can assemble at all times, is provided with lavatories and other conveniences, with a fire in the winter-time; and they have registered the basket-men of a certain number of gangs; and they have done as they promised, allowed those basket-men to select their own labour; and we have a very much superior class of labour to what used to be employed in the old office. That arises from the men being able to choose their own associates, and they are much better satisfied. In all these respects the members of the committee prove that they have strictly and literally carried out the engagement which was entered into with Parliament last Session.

899. Lord *Ravensworth.*] In fact no imputations have been made against the committee for not carrying out that agreement?

None whatever. The coal trade have also, as they promised to do, used all the influence they legitimately could in bringing their business to the office; and, with regard to the colliery with which I am connected, we use our influence upon the shipowners to the utmost of our power, and make it, wherever we can do so, a condition of the charter that the captain shall take the men out of our office; the collieries with which Mr. Foster is connected make it a special condition; and to the extent to which influence can be properly used and legitimately used, it has been used.

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900. Are you prepared to name any other large establishments in the North that have made any similar conditions?
Yes; Lord Durham's colliery, the Hetton Colliery; all, I believe, that can do so.

901. *Chairman.*] Was not the object of the old Act to compel the shipowners to go to the office?
Clearly.

902. At present the shipowners are at liberty to go where they like?
Certainly.

903. Therefore having that liberty, they must of course encourage the public-house system to some extent. A shipowner having a choice whether he will go to the office, or employ an agent, or go to a public-house, must encourage the public-house system, or encourage the system of agency more than if it was compulsory to go to the office?
Of course it must do so.

904. Viscount *Sydney.*] Have not you established this office to meet that objection?
Yes.

905. Lord *Colchester.*] What is the practical result; do the shipowners come in large numbers to your office, or do they prefer going anywhere else?
I think by far the largest amount of the coals discharged in the river is discharged through the office, and not by publicans. A return of the number of ships is not altogether a clear criterion upon the subject. I do not believe that there is such a thing as a screw collier discharged through a publican. They only count as one in the number of ships, although they are equal to two. Therefore, the number of tons discharged through the office, and the number of tons discharged through publicans will show a greater disproportion than the number of ships discharged by each.

906. *Chairman.*] Because the screws are discharged through the office?
Yes, or by machinery.

907. Therefore that will show less in favour of the publicans?
Clearly.

908. How is this return to be made out?
It is made out; we know the ships that we ourselves discharge, and we have the means of obtaining information of those discharged by others not publicans.

909. What are those means?
We have the means of obtaining information through the Coalmeters' Office and partly through the men.

910. Is a list of the ships that are discharged either by publicans or agents kept at the Coalmeters' Office?
No.

911. How is this return obtained?
Merely from private information.

912. Two coalmeters stated in evidence yesterday that they kept no account; is this return which you are now making to be relied upon?
The Committee must ascribe to it what value they choose.

913. It is made by your office?
It is made by our office.

914. To prove your own case?
No; it has been made out from the commencement of the office.

915. It is only from what you can gather from the men that you employ?
In order that we might see that the engagement with Parliament was correctly carried out, we immediately, upon the establishment of the office, endeavoured to ascertain what ships went past the office, and consequently we employed our own men, who had a greater interest in bringing the work to the office

office than we had to ascertain if the ships were not discharged by us, by whom they were discharged. *Mr. M. H. Chaytor.* 14th July 1857.

916. Have you ever sent any parties for any number of days to take information as to how the ships were discharging?
No; it is continuous.

917. Taking any period of time; you never sent any person to obtain that information?
We have offered a reward to the men upon bringing us information that ships were not discharged by the office, and, upon the receipt of that information, we have endeavoured to bring our influence to bear upon the owner of the ship to get that work brought to the office, and I hope with success.

918. Lord *Calthorpe*.] Have you any opportunity of knowing or hearing whether drunkenness has increased among coalwhippers since the abolition of the Act?
I cannot speak to that.

919. *Chairman*.] Have you never inquired amongst your men?
It is an offence that they should be drunk.

920. Have you never inquired of your own men whether they think that those who are not employed through your office, have increased in drunkenness since the abolition of the old office?
No.

921. Viscount *Dungannon*.] Is it common with any of the men who are employed at your office to go on board ship, and make bargains with the captain?
I only know of that case of Sullivans.

922. The office always ignores such bargains?
Clearly.

923. I presume if the office once admitted that sort of principle, it could not be conducted upon any system whatever?
Certainly not.

924. Lord *Colchester*.] What is your mode of proceeding as to price, if the master of a ship comes to you for a gang to discharge his cargo?
There is a fixed price for the office, that fixed price having been regulated by the competition of the trade, I may almost say.

925. Supposing a shipowner came to you for a gang of men to discharge a cargo, would he ask you what rate he is to pay them?
It is up in the office; the rates are put up; for a small vessel 7 *d.* a ton; for a screw steamer, whenever upwards of 119 tons per day is discharged, that being the bargain before hand, the price is reduced to 6 *d.*

926. In the case which has been stated before the Committee, it would have been the interest of the master to look at the office regulations before he took his gang?
It would have been his interest.

The Witness is directed to withdraw.

The Rev. WILLIAM WELDON CHAMPNEYS is called in, and examined as follows:

927. *Chairman*.] WILL you state your connexion with this district; of what parish are you rector? *The Rev. W. W. Champneys.*
I am rector of the parish of Whitechapel.

928. Does that position bring you in communication with many of these coalwhippers?
A good many of them reside in the parish; but I have made it my business, as in the case of the ballast-heavers, for whom I was deeply interested, so in the

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case of the coalwhippers, to ascertain, by personal investigation at their houses, and that without any notice, their present state.

929. In regard to the state of the ballast heavers, they have an Act of Parliament by which they are regulated?

They have an office established in connexion with and under the authority of the Trinity House, which has entirely tended to set right their former very serious position, and for which they are most deeply grateful.

930. Are there any complaints, do you know, from shipowners about that office?

I have not heard of any.

931. Did you know the state of these coalwhippers during the existence of the Act that expired last year?

I only know it from personal inquiry among the men; I do not know it from having been among them at the very time when this Act was in existence.

932. Lord *Ravensworth.*] How long have you been rector of Whitechapel?

Twenty years.

933. *Chairman.*] You were rector of Whitechapel during the existence of that Act?

During the whole of the time.

934. Were you rector before the Act came into operation?

Before it took place, and since the time of its termination.

935. You know perfectly the state of the men before the Act was brought into operation?

I have been cognisant of their former position under the Act, and am personally acquainted with their present position since the Act expired.

936. Can you state to the Committee what you consider their present position to be?

I felt it my duty to go into various houses without any preparation; without the men knowing that I was going; without selecting the houses, but simply taking the men that I found out of work, and the statements they made; some of them basket-men and foremen employed in the model office, as the men themselves call it, and other labourers. Their statements have been to this effect: that they have been latterly earning on an average not more than 9*s.* and 10*s.*, at the utmost a week, while during the existence of the Act many of them earned 18*s.*, 20*s.*, and some 25*s.* a week. The state of distress in which I found them is exceedingly painful; one man into whose house I went, a fine young man, of some 33 years of age, who has been, in fact, since he was able to do any work at all, a coalwhipper, an hereditary coalwhipper (his father was a coalwhipper before him), had taken the shirt off his back to pawn the very day that I saw him. His wife was at the time working in a dustyard sifting dust at 9*d.* a day; a babe of two months old was taken by the charity of a neighbour, and unless the woman worked, this fine strong healthy man (I believe a man of sober character, in fact he impressed me with that entirely), would have been in the workhouse, and this was the kind of case I met with.

937. Was he employed at the office, do you know; was he one of the office men?

I have ascertained that he is.

938. Lord *Dungannon.*] He was a public-house man?

He is employed at the office. In another house a mass of duplicates met me, and I made particular inquiries as to the state in which they had been before the Act terminated, and in more than one case I was told that during the whole time of the existence of that Act those men, down to the termination of the Act, had not a single duplicate in their possession; they had not been compelled to pawn anything; the woman apologised for being without any shoes; the reason was that the shoes were gone to pawn; the impression upon my own mind, from the state of her room, was most favourable as to the people themselves, and gave me the idea that they were persons who made the best of what they had, and took care of it.

939. Lord

939. Lord *Ravensworth.*] Was the second case that of a man who had been engaged by the office, or a publican's man?
That man was one who had worked the first ship from the model office, on the 12th of August 1856. The man in whose house I found the heap of duplicates, and the woman without her shoes, had been employed from the model office; one of the first men so employed, as he stated, to work the first ship, on the 12th of August 1856.

940. Lord *Portman.*] Was he dismissed from the model office?
No.

941. Lord *Dungannon.*] How long had he been out of work?
I did not ask how long he had been out of work.

942. Lord *Ravensworth.*] Would there be any objection to give his name?
William Tracey, No. 7, Mirton's buildings, Milk-yard, Shadwell, the second case. The first case is that of Patrick Flinn, No. 5, Mirton's-buildings, in the same parish.

943. *Chairman.*] Were both of those men strong able-bodied men?
Both of those men were perfectly able for many years to come to do a good day's work.

944. The first man did not state why he did not apply to the office?
No.

945. Did the second man state to you anything about the office?
No, he did not.

946. Lord *Portman.*] Was the second man a basket-man?
I am not sure. I only asked the question with reference to his working; that was the reply he gave me; the first man I mentioned was a basket-man; Joseph Lynch, No. 3, Little Queen-street, St. George's-in-the-East; he was a basket-man and a foreman.

947. Lord *Dungannon.*] Both of those men were out of employ at the time you saw them from your description of the condition in which you found them?
The two first, at the time I mentioned, were out of employ.

948. Lord *Ravensworth.*] Did you never know cases of similar want of employment among the coalwhippers under the existence of the old Act of Parliament during the 20 years you have known Whitechapel?
I have no doubt during that time men have been unemployed during the existence of the Act; but the testimony given me by the men to whom I have gone, was uniformly and universally to this effect: they had done well during the existence of the Act. I put a series of questions, and noted the answers under each question; the answers are uniform. The first man I inquired of said that he sometimes brought home 1*l.* a week, sometimes less, but always brought the whole money home. The second was, "Did very well out of the old Act of Parliament office; 1*l.* a week, and no deduction, except a farthing out of every shilling." I asked what benefit had been derived to the third man by the Act; his words were, "A lot of men in prison waiting for transportation, and getting reprieved; we were made free, and we were able to take home all we earned to our wife and children." They earned for the first two or three years 24*s.* or 25*s.*, and never had occasion to go into a public-house; "we did a great deal better under the old office; what we earned we brought home to our family."

949. Lord *Stanley* of Alderley.] Did not the men state what there was in the present office which prevented their being employed, or bringing their wages home to their families?
One replied he did not earn 9*s.*, and one that he was ready to swear he had not earned 10*s.*, another about 10*s.*

950. I thought I understood from your last answer that they were drawing a comparison between the two offices; that they brought back all to their families under the old office, and the inference would be that they did not bring back their earnings to their families under the model office?

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That was rather their want of understanding the inquiry; they were comparing in their own minds the state of things as they now are with the state of the public-house servitude before the first Act was passed; that was the thought they had in their minds; I give you their very words.

951. Not comparing it with the present time?
No; the thought in their mind was comparing it with the state they were in before the establishment of the office, under the Act of Parliament.

952. That is 12 years ago?
Thirteen years ago.

953. Lord *Portman.*] Will you take the three periods, before the Act, during the Act, and since the Act; in your opinion, were the men better off under the Act than they have been during the last nine months under the present system?
The testimony is uniform, that under the present system the men engaged at the office, whom I have examined, do not earn more than 10*s.*, and sometimes not 10*s.* a week; while under the Act, that is while they worked in the office which was established under the Act, they earned on an average from 16*s.* to 25*s.* a week; now they do not average 10*s.* under the office.

954. Looking at the returns which were before us yesterday, it appeared that the men earned from 13*s.* to 25*s.* a week, varying in all sorts of sums between those amounts, during the time that the Act was in force, and evidence was given to show that the men are earning as much now, if not more; supposing this fact to be in evidence before us, can you give any reason, derived from the knowledge you have, why either of those facts are not true, or that there are some peculiar circumstances by which the men only have been able to earn 9*s.* or 10*s.* a week, though they may have been able to earn 3*s.* 2*d.* for three or four days a week?
The men whose evidence I took, were those whom I should call average men; they were men that could do their fair share of work, and therefore might be regarded as a fair representation of the rest of the men. Not being perfectly acquainted with the workings of the trade, I cannot give an idea of the cause; I can simply give the fact. These men testified that since the office had been worked, and for which they had been engaged, the first were not able to earn more than 10*s.*, another 9*s.*, and in one case 5*s.*

955. It appeared in evidence that the men were reduced from 1,200 to 1,300 on the register, to 700 men; that the 700 men remaining were efficient men, and were able to earn the large wages then explained to the Committee; may not the men you have referred to be some of those men who were not of the selected men?
Two of them are still at work; one of them is off the roll.

956. Viscount *Sydney.*] At work for whom?
One is on account for the publicans, or any one who will employ him.

957. Lord *Stanley* of Alderley.] In the case of the man who earned 5*s.* a week, how many days' labour had he done to get that?
I cannot say how many days he had; I only have the fact.

958. Lord *Calthorpe.*] To what do they attribute the falling in wages?
I think where I have inquired, they have attributed it to this: instead of all the men being engaged, as was the case under the Act, from the Act of Parliament Office, which protected them, the publicans and other agents are getting a large proportion, something like a third, of all the trade, so that out of 120 ships which would be whipped, 40 would be whipped by publicans; and the public-house system under which they suffered so severely before the Act passed, is recovering its power, and the men are complaining of having to spend their money in a very large proportion at public-houses in return for their employment.

959. From your observation, do you think drunkeness has increased among the coalwhippers since the last year?
On that I cannot speak from personal knowledge. I can say that a very large body of the coalwhippers, after the establishment of the office, did become a most sober and respectable body of men, and most deeply grateful for the boon that had been given to them by their country, as they regarded it: in

proof

proof of which, as is probably known to all your Lordships, on the occasion of the threatened outbreak of chartists the whole body of the men came forward. Their character was that of increased sobriety; and many hundreds of them became total abstainers, under the Act, as it is popularly called.

960. It has not come to your knowledge that since the abolition of the Act drunkenness has increased among the coalwhippers?
I have not had an opportunity of observing whether that has been so.

961. Lord *Dungannon.*] Do you apprehend the difficulty which they have of bringing home what they earn for their families arises from the manner in which they are mulcted by the publicans?
When they are engaged by the publicans. I think I am right in stating that they are compelled to have a score as a return for being borne upon the books.

962. Do they frequently get, by means of that score, into debt with the publicans; do the publicans furnish them with drink in advance, that they may get into the publicans' debt?
Their habit is to have a score; that is, to drink at the public-house before they have the money to pay. It was generally those men who were largely in debt to the publican that the publican favoured by giving them employment.

963. Lord *Ravensworth.*] The system of engaging men at public-houses is universally condemned; can you suggest any means by which the system can be checked, supposing it to be increasing?
One means has been named clearly in this room to-day. I feel that the evil of compulsory drunkenness is so very great, that it seems to me not to be in any way infringing on the liberty of the subject to make it penal for a publican who adopts this system which compels drunkenness, to engage the men.

964. It might also be made penal for the shipowner to engage the men through the medium of the publican, might it not?
Yes. I have so strong a feeling upon the subject, that I should not object to that.

965. Do you think it would be desirable?
Entirely so. Nor do I think any legislation should be objected to that would protect these men from being forced to do that which they are as a body unwilling to do. I heard a remark made by the last witness that they are thirsty at that end of London. I must bear testimony as a clergyman at the east end of London, that this body are not any more thirsty than those at the west end of London; they are as a body of men as anxious to be sober, if they were but allowed to be, as any at the west end of London can be.

966. There is a direct evil complained of; a direct evil to be met here. There are two modes suggested of meeting the evil, the one to make it penal for publicans to engage gangs of men for labour, the other supplementary to that, to make it also penal for the shipowner to engage gangs of labourers through the medium of the publicans; do you think such a course as that should be recommended to the legislature?
If I may be allowed to state my own impression, I think it would have been far better to have let well alone: the Act worked universally well. It is my opinion it was a private feeling that caused that Act to be overturned; that is my opinion. But if the office established under the Act cannot be reconstituted, I quite feel that such an enactment, making it penal for men to be engaged in any way at public-houses by any person, would be only a just protection to this body of men.

967. The last witness, who was a colliery-owner and shipowner, said, that his objections to the Act were that he was obliged to take labour at a higher rate than the market rate of wages, and that the labour so provided was of an inferior description. Therefore this Act, which you say worked universally well, did not work universally well?
I will say generally well, because "universal" is a dangerous word; since if you can prove one single case to the contrary, "universal" drops to the ground. But I may be also allowed to say, under the old system, as I understand it, a man that was able to do his fair day's work, but was not at the full, perfect

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prime, as when he was a young man, with all his sinews strong, that that man was thrown in with others into a gang. It was the habit of the men constantly to have a man of 50 or 55 thrown into the gang. It was considered in many instances that a man being thrown into the gang to get his day's work was forcing men to employ inferior men; but the coalwhippers themselves wished such men to have a share, and they did their fair day's work. Under the present system that is impossible.

968. Lord *Portman.*] Is it your object to extend the Truck Act, if the Truck Act is not sufficiently powerful at present, to these cases?

I was asked whether it should be made penal that the men should be taken from public-houses under any circumstances; that would tend greatly to protect the men from that system, which I cannot too strongly reprobate, or feel too strongly against, for it is ruining the body and soul of hundreds.

969. You stated, as I understood you just now, that about one-third of the coalwhipping was done by persons engaged at public-houses?

I have understood that by inquiry from the men.

970. The evidence given yesterday was, not one-twelfth of the men employed in the port of London in coalwhipping were engaged from public-houses; should you be inclined to doubt, with the knowledge that such evidence was given, that you may have been misinformed as to its being one-third, or have you great reliance upon the information which you had given to you?

If I am correctly informed, the case is as I stated it. I state upon information, and am therefore, of course, subject to correction.

971. *Chairman.*] Would not any system by which wages were prohibited being paid at public-houses also be an advantage?

I think that would greatly strengthen the other prohibitions proposed, because unless the payment of wages is withdrawn from public-houses, there would still be the means of getting the men into the hands of the publican.

972. If such a thing were possible that all wages and all transactions should be carried on at the office, though not compulsory, to employ men from that office, would not that be a benefit?

It would be a great boon to the men, and a great protection.

973. Lord *Ravensworth.*] We have been inquiring as to the mode of meeting this positive evil, which is acknowledged. I apprehend you are not prepared to state as your opinion that any office could be established, or any regulations made, which would give employment to every man engaged in coalwhipping?

Certainly not. If the demand is in the proportion of ten, and the labour in the market in the proportion of 14, there would be $\frac{4}{14}$ths unemployed.

974. May not that be the cause of the want of employment of those parties you have mentioned to the Committee?

I have no doubt it is a cause; whether it is the cause I greatly doubt, or that it is a cause of such great weight as might appear; that it is one out of many causes I have no doubt whatever.

975. Again, another cause of that diminution of labour to the coalwhippers has been stated to be the employment of machinery; are you prepared to admit that that may be a second cause?

I am perfectly persuaded that it must be one among the causes.

976. Can you suggest any mode by which employment can be universally given?

I cannot, and no one possibly could. Except I could force such a supply of coals from the North as should require all the labour in London to work it, I could not meet the case.

977. Lord *Stanley* of Alderley.] Do you think it possible, by any legislative enactment, to keep up the prices of wages beyond what the market will fairly justify; do you think it possible, by any legislative enactment, to give a greater number of people work than there is work for those people to do?

Certainly not.

978. *Chairman.*]

978. *Chairman.*] You think it possible, by legislative enactment, to prevent those parties going to public-houses, and other places, to engage men?
I do.

979. Viscount *Dungannon.*] How did the Act, when it existed, preserve the men from the evil effects of being hired by publicans?
Because, as I understand, the captains of the coal ships were obliged to make an offer at the office of a price; if that offer was declined, then they were at liberty to go into the labour market, but they were not allowed to offer a higher price than that which they had tendered at the office. The consequence was, the first offer was made at the office, and the officials being willing to take a fair price, and to get the men paid by a constant supply of labour, there were comparatively few refusals, so that the men did not go to the publicans. I mean that those who had to engage the men were obliged to go to the office first.

980. Did not the evil prevail of which you now complain to some extent, or to a considerable extent, during the existence of the Act?
No, I am not aware of the evil existing then. The testimony of the men was the other way; the words of one poor man, when I asked what benefit would be derived to them, as he thought, by the re-enaction of the Act, were, "that it would be the greatest boon that was ever granted; it would be just the same as the first emancipation, 1843;" they regarded it as literally striking off the chains of slavery, and that they were free men when that Act was passed.

981. *Chairman.*] Do persons, when they are obliged to go to publicans for employment of this kind, consider themselves as free labourers?
They do not.

982. Lord *Stanley* of Alderley.] But are they compelled to go to publicans?
If they have no engagement at the office, they get work where they can; they get it of the publican or other agent, as the only source open to them, except they be private servants employed in coalwhipping, as I understand it.

983. That is to say, in case of the office not being able to provide labour for them, they must seek it elsewhere?
There are a certain number of gangs at the office, 82 I think, and all the men who are coalwhippers by trade over and above the 82 gangs, must go and get their coalwhipping somewhere; they may be private servants, employed at wharves, or employed by their own masters; but if they are not private servants, they must go where they can get a living, either to the publican or anywhere else, on the principle that half a loaf is better than no bread.

984. If a man is an able-bodied man, what is to prevent his going to the office, and getting employment?
Only 82 gangs are employed at the office.

985. Is it a fact that able-bodied men, wishing to be employed, are refused employment at the Coalwhippers' Office?
I cannot answer positively that question; it was not one of my questions to the men; I am speaking now only of what I asked.

986. All that you have been stating to the Committee is merely what you have heard from individuals; you have no knowledge of the fact yourself, except through such representations?
I cannot suppose it would be possible for any one to know the facts except by inquiry of the men; we cannot know it ourselves except we are coalwhippers or coalowners. I have got the information from the men themselves in their own houses.

987. It is merely the statements of the men; have you not taken measures yourself for the purpose of substantiating any statements made by the men with regard to the condition in which they are?
I have taken some pains to have a corrective statement; I have had those, who have known the facts, and reindorsed them.

The Rev. W. W. Champneys.

14th July 1857.

988. Will you state to the Committee any steps which you have taken for the purpose of substantiating those statements; that is to say, when the men have stated to you that they could not get employment at the coal office, have you inquired at the coal office as to what their system was; whether they had refused to employ those persons who have made such representations to you?

I was asked whether I had made inquiry of the men; to that I replied I had; the question which is now put, I cannot answer.

989. Are the Committee to understand that you have taken no steps for the purpose of substantiating the statements made by the men, and that in the evidence which you have given to the Committee you have been merely reporting to them statements made to you by the men themselves?

It is quite correct that I have not been at the coal office to ascertain the accuracy of their statements; I simply state the circumstances in which I found the men in their houses; and I give you the evidence of the men as I took it on the spot; I have not been to the coal office.

990. Lord *Wynford.*] I thought I understood you to say that you had substantiated the information which you received from the men by inquiries of other persons who had indorsed their statements?

No; I said that I had not depended solely upon the evidence of the men, but that I had those who knew the facts, and who reindorse the statements of the men.

991. Viscount *Dungannon.*] Who are those persons who knew the facts?

I mean some persons who have been cognizant of the facts from their own personal knowledge.

992. Viscount *Sydney.*] What class of persons?

The same class.

993. Coalwhippers?

Yes.

994. Lord *Stanley* of Alderley.] Those were only the statements of the men themselves; are the Committee to understand that what you call the indorsements of the statements made by the men were merely repetitions of similar statements by other men?

No.

995. By whom were those statements confirmed?

Those persons, who had known the men, stated to me that the facts stated by the men were correctly stated.

996. Who were those persons who did so state; I understand you to say that they were other workmen who were employed in the same calling?

They were other workmen who knew from personal knowledge that the facts stated by the men to me were correct.

997. Lord *Portman.*] You stated just now that which led me to believe that there were only 82 gangs, and that the men who were not in the 82 gangs could find no employment. Supposing it appears that when more men are wanted at the office, they find the best men in the coalwhipping trade to fill up the demand in the market; supposing that to be the case, and you were informed that that was the case, have you therefore a doubt of the accuracy of the information given to you as to the non-employment of a great many coalwhippers, except through the publicans?

I did not quite state what your Lordship has put to me. As I understand, you suppose that I have said that the office would not employ more than 82 gangs; I did not state that; I simply stated that 82 gangs were the total number of men employed in the office.

998. Earl of *Carnarvon.*] Without inquiries at the office, I understand from you that you are morally convinced that there is a large number of able-bodied coalwhippers out of employment, both at this and at other times?

That I do not doubt; I have seen them out of employment.

999. Viscount *Sydney.*] Are you aware whether there is sufficient employment for them?

We

We have heard to-day that a portion of them, at all events, a small portion or a large portion, as the case may be, must be unemployed; that there are causes at work; one cause has been named, machinery, which will diminish, to a certain degree, the number of men employed; but those causes do not, to my own mind, account for the large number of men who are unemployed; they go towards it, but they do not account for it.

1000. Lord *Stanley* of Alderley.] To what do you attribute the want of employment for these men; do you consider that the establishment of this office has prevented them from obtaining employment, or to what other cause can you attribute it, if not to the deficiency of labour?

The deficiency of labour must undoubtedly be a cause; the deficiency of demand must, of course, be the reason why a number of men are employed, while there are some unemployed.

1001. Can you propose any measures by which that deficiency of labour can be remedied, and employment given to men for whom there is no work?

I have already given an answer, that if I could force the coalowners in the North to send up a sufficient quantity of coals, I could employ them.

1002. Does not that account for the want of employment of which you have been already complaining?

It does not appear to me wholly to account for it. The evil to which my attention has been addressed has been just simply this, that under the present system a very considerable number of men who under the old Act were employed, are some out of employment; but of those who are employed, many of them are engaged under the old, unsound, evil and vicious system which is creeping on, the system of public-house agency.

1003. That may account for the vicious employment of men, instead of the wholesome employment; but I do not understand how it accounts for their non-employment, of which you just now complained?

I do not think it does; the want of demand must be the sole reason.

1004. Lord *Portman*.] May it not happen that a certain number of infirm and inferior men have been misplaced, and that an equal number of more able and better men may have taken their place?

Not an equal number.

1005. But a sufficient number?

Neither equal nor sufficient.

1006. Earl of *Carnarvon*.] You draw a distinction, do you not, between a legislative enactment which would compel labour to be brought into the market from the North, which would be practically a *reductio ad absurdam*, and extending protection to a particular class of men to prevent the reduction of their wages in a public-house?

A very wide distinction; I can give no testimony as to the best way of creating employment for those men who are out of employment.

1007. *Chairman*.] It was stated yesterday to the Committee that the object of this coal office was to reduce the number of gangs, in order to give better wages to the men employed; consequently, those who were not engaged at the office had to seek work elsewhere, although they were able-bodied men?

Yes.

1008. Some of those men with whom you have met, have stated that they were obliged to resort to agents, publicans, and others, to get employment?

Yes, it is so, exactly.

1009. Viscount *Dungannon*.] When you found, as it appears from your evidence you did, so many persons in great distress from being out of work, did you make any inquiry whether, when they could not get employment in their regular vocation, they could find employment either at the docks or elsewhere; whether there are not other employments open to them when there was any deficiency with regard to their usual avocation?

The Rev. W. W. Champneys.

14th July 1857.

They seek employment in the docks when they cannot get employment as coalwhippers; but there is a very large surplus, almost under all circumstances, of dock labour. Your Lordships are aware that the difficulties are very great; they simply come to the ablest, or those who are best known; they take their chance of work at the docks, and try anything to get employment. They are willing to do anything they can by which they can get a bit of bread.

1010. Earl of *Shaftesbury.*] Is not machinery very much used in the docks in London for the purpose of unloading ships?

It is new to me.

1011. *Chairman.*] Does your knowledge extend to whether there have been any new public-houses opened in consequence of the expiration of the Act?

I have not ascertained that.

1012. Lord *Calthorpe.*] I understand you to say that there is a good deal of distress amongst coalwhippers at present?

I have seen it.

1013. Has this distress increased since last year?

Since the termination of the Act. The result of my inquiries was this, so far as the men's evidence is to be depended upon, that up to the termination of that Act, they were not in debt at all; that they were able to pay their way, and did very well, and that since then there has been on the part of those very men, who were engaged in the work under the old Act, a very large arrear of debt.

1014. In short, from your own observation, you find that the distress has a great deal increased?

Certainly.

1015. Viscount *Dungannon.*] Did you make those inquiries personally?

Yes.

1016. Earl *Vane.*] According to your experience, would those coalwhippers who cannot get work in London, be willing to go to another part of the country to get work?

I can only speak to the general character of the men.

1017. Do you think that the superfluous coalwhippers who cannot find employment in London would go to the North of England, where employment might be found them?

I should be very thankful to have an opportunity of shipping off to the North my coalwhippers who are out of employment.

1018. *Chairman.*] Do you consider that the number of men seeking employment through the medium of public-houses is on the increase?

Yes, undoubtedly.

1019. Viscount *Dungannon.*] You were asked just now a very important question, whether these men would be willing to go elsewhere to seek employment, for example, to the North of England; you say that you would be glad to ship off a considerable number of them; do you think that the men would accede to such an offer if it were made to them?

I have not put the queston, but, from the general willingness which they express to go abroad, my own impression is that they would be willing.

1020. Earl of *Shaftesbury.*] Would they be willing if they had to pay their own expenses?

If they had the means they would, but they are in debt, and have no means of going.

1021. Lord *Calthorpe.*] Is emigration prevalent amongst the coalwhippers?

They have no means. I believe at this time, if we had the means of sending them away, a very large number of these able-bodied men would be very glad to go.

1022. Viscount *Dungannon.*] Are these men who are habituated to this kind of work calculated for work of another description, such as harvest work?

Yes,

Yes, they are able men; of course they have had no practice in handling the sickle, and they would have to learn it; but they are able-bodied men, and they would turn their hands to anything.

1023. Haymaking and mowing do not require a great amount of handiwork?
It was only this morning that I have heard of a family going inland to that very work; Kelly's family.

The Witness is directed to withdraw.

SIMON FINN is called in, and examined as follows:

1024. Viscount *Dungannon.*] WHAT are you?
A coalwhipper at the present time.

1025. *Chairman.*] Were you employed at the original office under the Act of Parliament?
I became a coalwhipper then.

1026. Were you employed at that office?
I attended at that office till the model office started. At the expiration of the office that was protected by the Act; then they formed the model office, and I thought I would stick to the model office till I saw that it would not act, and I found my work going away, and then I was forced to follow it.

1027. What do you mean by your work going away?
The best of our work was going to public-houses and elsewhere; men were working 1 *d.* under us every day, and earning more money. I considered I was as well able to work as well as them. I was only getting my regular turn in the office, and the work went to men that were not able to do so much as me.

1028. So that you could earn more under a public-house than through the office?
I did not go to a public-house, as it happened. I went to work for Mr. Cooper, and Green and Jones, at the gasworks up at Westminster and Vauxhall, but for the money I had to go to a public-house, to the lighterman that sets us to work; he goes and receives the money from the ship or the steam-boat when the labour is done, and then it appears that he takes this money up to the head office, wherever it is, in Vauxhall or Westminster, and then we have to wait all this time in a public-house till he returns with this money, and then he gives it to the basket-man, and the basket-man doles it out to us; all this time we are waiting; some take a pint and some a pot, and it increases, so that we get elevated, and by the time we get our money we are in that state that we are not capable of minding ourselves, or any one belonging to us, and if we have got work on the following day to attend to at five in the morning, by the time we get our money, the butcher's shop is shut up against us, and likewise every place where we could lay out a shilling to get a bit of breakfast or dinner the following day.

1029. When are your wages paid?
Every time we are working a ship or boat out.

1030. Are you employed by the gas company?
Yes.

1031. What is the name of the gas company?
The Westminster and Vauxhall Company; the name of Green and Jones, and Mr. Cooper.

1032. Do they pay you as soon as the work is done?
I know nothing about them. I stated before, my Lord, that the lighterman receives this money from the captain of the ship, and brings it up to Wetminster or elsewhere, and pays it into the office, and then he brings it back from there to us.

1033. Where does this lighterman engage you?
The basket-man under him provides the men; he does the money matters.

Simon Finn.

14th July 1857.

1034. How does the basket-man select his men?
He selects his men wherever he can get them; those that are likely to do the work; those that court his friendship very often through a drop of drink.

1035. What public-house is it that you are kept waiting at?
The Devonshire Arms, at Stepney, I think it is.

1036. How long have you been kept waiting for your wages?
Four hours, and longer than that sometimes.

1037. Did you ever unload a screw steamer?
There are two constantly running for the gas company; there are two firms, and sometimes one of them goes to one firm, and another to another; sometimes the two steamers go to one, to Green and Jones; the "Hawk" and the "Caroline" is the name of the two boats.

1038. Do you work for any other agents?
Yes; I have for Mr. Cory one day, but no more since I left the model office.

1039. Why did you work only one day for Mr. Cory?
It happened so; I stood about waiting for a call, but there were so many, that I had not a chance.

1040. Have you ever worked for a public-house?
I have never worked one day for a public-house yet.

1041. You are employed by the gas company, and you are obliged to go to a public-house to receive your money?
For information when the boat is to be up, and for the money. With regard to this day's work for Mr. Cory, I will just state to your Lordships how I was served over that; it has been the case with a good many men as well as myself. I did 107 tons last Thursday for Mr. Cory, of house coals, at 7 *d.* per ton, and when I had done my day's labour, I applied to the basket-man for some money; he told me he could not give it me; he drew the money the night before, and gave it to a man that was there; I said, "I have done 107 tons; cannot you give me a shilling; I have not got anything to get my supper." When we earn 5*s.*, we have what we call chequering money given to us. I asked him for a shilling to get my supper; he said he had no money; the next day I went for money; he said he had no money; I was losing money all the time. The following day I went for my money; he said he had no money; the ship was not out. I met the man on Saturday, and he told me the ship was expected out every moment. I waited there, instead of going to look for work elsewhere, and presently I saw the gang come ashore with the gear; that was Saturday last. I waited, and naturally expected that 107 tons would come to me; the basket-man belonging to Mr. Cory, who was supposed to be a confidential servant of his, goes away with the money where he thinks proper, and I have not received any money from last Thursday up to to-day, this morning, when I had to answer this summons. I went to Mr. Cory's manager to ask for the money; he was not to be seen, and I was to call again.

1042. When you worked at the Coalwhippers' Office under the old Act, did you get your wages regularly?
I got my wages, making a deduction only of a farthing in the shilling, and I was contented with that.

1043. You have worked at the model office; did you get your wages regularly there?
Not regular.

1044. How often?
They kept altering; sometimes once a week, and sometimes twice. The first thing done at the model office, which caused great trouble with the men, was that they cut the body in two; one half stopped at the office, and the part cut adrift was compelled to go away to public-houses or elsewhere to get a living.

1045. That was done in order to reduce the number employed at the office, was not it?
To make good wages for a few; the others might go and starve. You will understand that a great portion of the body of coalwhippers is not fit to go and cultivate

cultivate the land, or do any other labour; they have lost all their early days, and they are not fit to do anything else. A great strong man coming out of the country would not be able to do our work, and therefore when they are cut adrift they go down to the docks, and that is the full extent of what they can do; if they get a job, they get half-a-crown for their day's work; it is heart-rending for any man to witness what I have witnessed. I get the best of river work, and I am hard set to live, though I have nobody but my wife and myself to care for.

1046. Lord *Stanley* of Alderley.] I think you complain that the Vauxhall Company paid your wages through a publican, so that you are obliged to pay a certain portion of it there?

It is done in that form; I do not know whether they are aware of it.

1047. The basket-man does it?

The basket-man receives the money from the lighterman, and the basket-man then pays us.

1048. Is it not the fact that the Vauxhall Company was entitled to whip its coal by men not taken from the office during the existence of the Act of Parliament, as well as since its cessation?

Mr. Cooper's was some of the best work we got through the office.

1049. Did the Vauxhall Gas Company employ men through the office formerly?

Yes, when the office was protected; it was when the office was broken up that the men found every place where there was likely to be the best work, and offered their services.

1050. Was not it the fact that the gas company employed men other than the men at the office, or did they take men from the office?

Under my notice it was from the office.

1051. And never from any other quarter?

Everything went through the old office comfortably, and the men were quite satisfied; let their wages be what they would, they had no grievances, but a fair turn of work round by every gang in regular turn.

1052. I am only speaking of the gaswork; I wish to know whether it was the fact or not, that the Gas Company always obtained their men from the office while it existed, and did not employ men who were engaged by their own servants?

From the office.

1053. Lord *Colchester*.] You say that in the model office they cut a line, and discharged one-half of the men; did they make a selection of the best men, or how did they divide them?

It was supposed that they were to select the worst men, and turn them adrift; several parties felt aggrieved that the old men were sent adrift.

1054. Lord *Stanley* of Alderley.] Was not the object to discharge the old and infirm men, and keep the able men?

Plenty of men were turned away from the office, whole gangs, who were as capable, or more capable of doing the work than the men who were actually kept in the office, by some means or the other.

1055. *Chairman*.] The object being to reduce the number of men in the office, so as to raise the wages of those at the office?

Yes; the fact was, that other parties, who were not fit to go and earn their bread at anything else, having spent their early days at coalwhipping, were forced to go to public-houses, and offer their services. Lumpers, that have four or five ships, have taken those men, and they have worked against the model office, and so, by degrees, one man has cut the other down to that price that no one can live at all at it.

1056. Lord *Calthorpe*.] What wages do you receive from the Gas Company per ton?

We are only getting 6 *d.*; the firm is getting 7 *d.*; they receive 7 *d.*, which is the whole price, and the men get 6 *d.*; they have got 7 *s.* 6 *d.* for their gear besides that odd penny.

Simon Finn.

14th July 1857.

1057. To whom does the penny go?
To the firm; how it is distributed, whether it is kept by the firm, or distributed through their servants, I cannot say, but such is the case.

1058. Lord *Colchester.*] You mean that the shipowners pay 7 *d.* a ton to discharge the coals, and the men only get 6 *d.*?
That is right, my Lord.

1059. Viscount *Dungannon.*] Who did you say the other penny goes to?
It goes to the firm; they receive it; the lighterman takes this money aboard ship; brings it up there; they take this penny out of it, and send the men their wages back.

1060. Lord *Portman.*] Who do you mean by the firm?
Cooper, and Green and Jones; I do not know the men; I never saw them in my life; it is represented to me that such and such a firm is employed, and that I work for it.

1061. Earl of *Carnarvon.*] What do you make a week generally?
I do not know rightly what I do earn a week. I know one week with the other, to come as near to the point as I possibly can, I do not earn 11 *s.* a week, and that is supposed to be the best work.

1062. Are you a basket-man?
No.

1063. Does the basket-man make more generally than the other men?
Not that I am aware of, without this penny; we all think it is split; without that, he gets no more than I do.

1064. Lord *Calthorpe.*] What did you earn under the Act?
Sometimes I earned 18*s.*, and a pound, and up to 25*s.* clear money, and brought it home.

1065. To what do you attribute the difference of wages, from 18*s.* which you formerly earned, to the 11*s.* which you say you now earn?
To the best of my opinion, through the men being all turned adrift, and working out of the public-houses; the one fighting against the other, cutting down the wages from 9*d.* to 8*d.*, and from 8*d.* down to 7*d.*, and 6*d.* and 6½*d.* When we were getting what we considered a fair week's work, we took it in our regular turns; there was no jumping over backs, but every man got his regular turn, and he was contented with it, and it averaged by every man getting his fair turn about a pound to each man.

1066. Lord *Stanley* of Alderley.] Did all the men in the old office get six days' work in the week?
They averaged about five, or four days, not six; it was 4*s.* 10*d.* per day.

1067. When you got only four days' work, did you get 18*s.* per week?
We are compelled to perform the labour left out for us, when a ship is going, to save time.

1068. You stated that your wages were 18*s.* per week; did you get 18*s.* when you were employed only four or five days, or when you were employed six days?
I could not say every week; a coalwhipper does not work six days, because he falls in with the ship. When she is kept all her time, they take eight or nine days; that just cuts them out of a day's wages, and of course we must average the days he is idle with the days he is employed.

1069. What I want to understand is this, when you said that you got 18*s.* a week, did you mean that you got upon the average of different weeks, sometimes four days, and sometimes six, your 18*s.* wages for six days or four days?
I dare say we did get 17*s.* or 18*s.* upon the average.

1070. Earl of *Carnarvon.*] Sometimes you got a little less than 18*s.*, and sometimes a little more?
Yes.

1071. Lord *Portman.*] You used the expression a fair week's work; what do you mean by a fair week's work?

With regard to a fair week's work, there is nothing fair about coal work.

1072. Do you mean a mixture of day-work and night-work?

If a coalwhipper does five days' work out of the week, I consider that as near fair as possible, because he does work out-of-the-way hard to save a tide. It is not like any other work; when the barges come alongside, if you do not complete the loading of those barges that are sent up with the tide, there will be a complaint, and they will get some other person besides, when a barge is three-fourths loaded, you must not knock off till she is completed, and left out of danger. A three-fourths loaded barge is liable to go down with the swell of the steam-boats, and we are compelled to over-exert ourselves when we are required more than any other class of men from my experience in the coal trade.

1073. You were speaking of the great exhaustion which was consequent upon your labour; should you be disposed to approve of a law preventing your being at a public-house?

I do not think that any law should be prevented for us to get protected as we were before; there was no grievance as between the owners and the captains, nor as between the men; the men were satisfied with what share they got, and they seemed to give satisfaction to any persons that had dealings with them.

1074. You say that there is great exhaustion in this coal work?

Yes.

1075. Have you any wish for the change in the law to be such that the coalwhippers are to be prohibited from going o public-houses?

I do not see how that can be the case without there is an Act of Parliament given to them, so that they can get their money at the office, as they did before, and take it home to their families: if there is not an Act, it will be all a system of public-house, by some means or other.

1076. As regards the public-houses, you desire that your money shall not be paid at a public-house?

Or to go there in any shape or form.

1077. I understood you to say, in the early part of your evidence, that when you were waiting for your money at the public-house, you took a pot with this man, and then a pot with another, till at last you were in such a state that you hardly knew where you were, or what you were doing?

Yes.

1078. How comes that about?

Because a man is ashamed to sit picking his fingers, and look like a humdrum; one man staring at another for four or five hours where the stuff was, and he could get a pint on trust.

1079. You wait at the public-house for the basket-man, who gets the money from the lighterman?

Yes.

1080. Lord *Calthorpe.*] You are tempted to spend a part of your wages in drink?

Yes.

1081. Viscount *Dungannon.*] You say that you do not get your wages till the butchers' shops and grocers' shops are shut up, and that you did not know where to buy your meal for the next day; is that statement correct?

That is true.

1082. Is what you have stated a common case?

It is a common case; not only that, but three boats ago they made a mistake of paying 5 *s.* away by some means or other; and on the first payment that I got, they would not consent to pay us our money until we consented to pay down 3 *d.* a man to make up their mistake.

1083. Do you often get into debt at the public-house, where you say you have this drink before you get your wages?

Simon Finn.

14th July 1857.

Perhaps I am so elevated, that when there is no butcher's shop open to lay out my money, I go and have another lot, when I should not have it. If I had got my money at once, instead of going to a public-house, I should go straight home.

1084. You are placed in a situation of temptation which you cannot resist? I cannot; and if I made any moans or grievance about it, they say, "You can go; there are plenty that will come if you do not like it."

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned to Thursday next, at Two o'clock.

Die Jovis, 16° *Julii* 1857.

LORDS PRESENT:

Duke of CLEVELAND.	Lord POLWARTH.
Earl of CARNARVON.	Lord CALTHORPE.
Earl VANE.	Lord COLCHESTER.
Earl of DURHAM.	Lord RAVENSWORTH.
Viscount SYDNEY.	Lord ROSSIE.
Viscount DUNGANNON.	Lord STANLEY of Alderley.

THE LORD ROSSIE in the Chair.

JOHN FARROW is called in, and examined as follows:

1085. *Chairman*] WHAT is your occupation?
A coalwhipper.

1086. Do you work for the office, or for a public-house?
I work for the office.

1087. How long have you worked for the office?
Ever since it commenced.

1088. You mean what is called the present model office?
And the old office; and previous to the old office; I have been 20 years a coalwhipper.

1089. Were you working there on Monday last?
I was.

1090. Can you state to the Committee whether the whole of the gangs were employed during any part of Monday?
Not any part of Monday were the whole of the gangs employed.

1091. How do you know that?
I was what we call baulked; that is, there were no craft, and then they send us ashore. I was ashore about half-past nine, and I came ashore and went into the office with my men, which is the rule for the baulk men to take jobs; that is, if there are any men absent or sick, the baulked men take the jobs; we come on shore and book our names; at least I book my name on behalf of the men. There is a list posted in the office, invariably, with about 40 gangs on it. I counted the list while standing at the door, and there were 40 gangs of men, or 40 numbers of gangs of men, that is nine each, posted in the office, and there were some whose numbers were not posted; we go by numbers.

1092. What do you mean by "posted"?
When we clear a ship I am called No. 62 gang; they do not put down our names, but make out a list; we have no book that we can see when we come in turn for our ships, or for the jobs; and so many gangs are put down on a piece of paper, say 40, and wafered up on a notice board in the office. We can then see when we come in turn.

1093. Lord *Stanley* of Alderley.] Were only 40 gangs employed that day, do you say?
There were upwards of 40 gangs unemployed there last Monday.

John Farrow.

16th July 1857.

1094. Lord *Calthorpe.*] Out of 82?
Yes.

1095. Lord *Stanley* of Alderley.] At what o'clock was that?
Half-past 10.

1096. In the morning?
Yes.

1097. *Chairman.*] How many of those were employed during the rest of the day; have you any means of knowing?
I have not the means of knowing how many there were employed, but I should say myself, with the numbers that were posted outside (we had not got them all out that were idle), there were very nearly 50 gangs idle that day.

1098. Lord *Stanley* of Alderley.] You have just said 40?
Those were posted to which I can speak positively, but I cannot speak for the number on the book inside. I can only judge by seeing that the men were out on Saturday, and they were posted outside on the list.

1099. Lord *Colchester.*] Was your own gang employed on that day?
Yes.

1100. At what o'clock?
I went on board at seven, and was sent ashore about half-past nine; then I had to come from Execution Dock, or Rotherhithe Church, to book any men as baulked. Then they are entitled to a day's work in place of those who are sick or absent.

1101. Was it a completed job?
No, there were no craft, and it is the rule when there are no craft to give us, on those days to send us ashore; then the next day we have to do two days for one to bring up our time.

1102. Lord *Stanley* of Alderley.] How do you know that all the gangs were not engaged during any part of the time?
I am quite certain of it; a man's number whose number is posted outside is unemployed.

1103. How do you know that they were not employed later in the day; you only speak up to half-past 10 o'clock?
The manning of ships is invariably done by half-past 10; perhaps one ship after that. I have the cleaning of that office, and on Monday night, when I went to the office to sweep it after leaving here (I was here all day on Monday), there was one gang gone off of that list; that was after I had left your Lordships' Committee-room on last Monday.

1104 Lord *Ravensworth.*] Then it seems from what you say, that if any person stated before this Committee that on Monday morning there was not a man to spare in the Coal Trade Office, such a statement was a mistake?
If the statement has been made, it is false.

1105. Viscount *Dungannon.*] You are satisfied of that?
I am.

1106. *Chairman.*] Are there any other parties who can prove it?
There are.

1107. You can give the Committee the names of other men on the gangs who were not employed on Monday?
Yes; every one whose number was posted on the register on the notice board.

1108. Lord *Stanley* of Alderley.] To the extent of 40 gangs?
Yes; and I might say upwards. I can speak for the number posted.

1109. Viscount *Dungannon.*] You mean Monday last, do you?
Yes; I was here all day. I merely came as a visitor, more than anything else. I was the person, as my Lord Stanley knows, who waited upon him with a deputation to try and get a renewal of the Act of Parliament; and I have taken great

great interest in this affair, being one of the sufferers through the old system of employment.

1110. Lord *Colchester.*] Then the Committee is to understand that although you were not present the whole day at the office, yet because certain gangs were posted and their numbers were not taken off the board, therefore they were not employed during that day?
Yes.

1111. Viscount *Dungannon.*] You cannot be under any mistake about it?
Not in the least.

1112. *Chairman.*] Do the basketmen apply at the office, or how is it?
The basketman is the responsible person for the gang of men. You have eight men given you. I am a basketman myself. When you clear a ship, as I stated before, your number is put down in a rotation book. When the whole list is taken off, your number is put out, and we go and look at this list to know when we come in turn. When we are nearly in turn, the whole of us muster in our waiting-room, and wait till a bell is rung for us to take our turn, and as each man's number is scratched off the list from the top downwards as the bell rings, we know that it is our turn to take a ship.

1113. Earl of *Carnarvon.*] Is the basketman paid higher than the other men in the same gang?
Not in the present office.

1114. Is there no difference?
None: in the other office there was.

The Witness is directed to withdraw.

JOHN FORSTER, Esquire, is again called in, and further examined as follows:

1115. *Chairman.*] I HAVE this moment received a letter from you which I have read to the Committee, and the Committee's wish is that you should have an opportunity of explaining a statement which the Committee seem to have completely misunderstood, according to your own letter. They understood you to state that you were informed by the manager that the whole of the men at the office, at the time when you were speaking, were in employment. Will you state to the Committee what you intended to say?
I had better explain how I was led to make that statement. Something passed before the Committee as to the number of men outside our office seeking employment, and, thereupon, Mr. Barber, who was standing beside me, whispered to me that that morning he had been unable, wanting a man for a gang, to procure one without taking him from the disengaged men generally in attendance. It was my intention to state that fact to the Committee. What the words were which I used, I do not know.

1116. Lord *Ravensworth.*] These are the words: "Lord Stanley asked you, "Are there any considerable number of men who are on your books at the office who cannot get employment for any long period, or can you state for how many days in the week they can get employment?" You answered thus: "It depends upon the arrivals of ships. Latterly there has been a great scarcity of employment, as I have heard this morning. This morning I understand from our registrar that we have not a man to spare." Then the next question is, "They are all engaged and paid full wages? Yes."—"*Chairman.* Then if any more ships come in, you have no men to supply them? Men would come to us, but at this moment they are gone"?
I misunderstood what the registrar said to me, and, as I have expressed to your Lordships, I conveyed a wrong impression to the Committee; Mr. Barber perceived that I had done so, and he endeavoured to correct the error immediately; he appears to have failed in doing so.

1117-18. Lord *Stanley* of Alderley.] Have you not a paper which is a representation of the state of the case at the office?

J. Forster, Esq.
16th July 1857.

I wish to lay before the Committee a copy of an explanation of the organization of the office, given to your Lordship, as President of the Board of Trade, in March of this year.

1119. Will you put it in?
(The Witness delivers in the same.)

Vide Appendix.

1120. It is a statement of the organization of the office?
Yes.

1121. *Chairman.*] Mr. Barber, your manager, was manager of the original office?
He was registrar of the Parliamentary office.

1122. He has been all the time in your employment?
Yes.

1123. Has there ever been any question about his discharge from your employment?
No.

1124. The committee of management have always been perfectly satisfied with his conduct?
We retain him in our service now.

1125. You have been always perfectly satisfied with him?
Yes.

1126. Lord *Ravensworth.*] And he is a man in whose conduct you can place full confidence?
We consider so.

1127. *Chairman.*] And a perfectly sober man?
We think so. I was aware, before I left the room on Monday, that there was a misapprehension on the subject of the men being employed, but I also considered that Mr. Barber had put it right.

The Witness is directed to withdraw.

Mr. JOHN BARBER is again called in, and further examined as follows:

Mr. J. Barber.

1128. *Chairman.*] Mr. Forster stated in this room, according to the evidence which we have before us, that on the Monday when he was here, you had informed him that the whole of the men at the office were then employed, and the Committee understood you to confirm that evidence. Since that, Mr. Forster has written a letter to me as Chairman, which I have read to the Committee, explaining that that was not what he intended us to believe. He states, "I intended to inform your Lordship that we had no applicants for work to whom we were obliged to refuse admission into a gang"?
I have the books here; it is rather a technical thing. The fact of being unemployed is one thing. What I explained to the Chairman, and what I endeavoured to explain to your Lordships, and afterwards tried to correct when I thought that you had misunderstood it, is the difference between unemployed men and unganged men. I had men there ready for work; I could have taken a dozen or 20 ships; those men were not in turn. But when a basketman comes to me, and applies for an able-bodied man to fill up that gang, if there were a surplus of good men along the coast, I should find plenty there; I should put one of them on that gang. But on that morning, when I called for an able-bodied man unemployed to fill up a gang, I had not one, and that is what I meant to explain, and I am very sorry that I was misunderstood; but I had men unemployed, because there were gangs waiting for their ships. What I meant to say was, that along the coast that morning, it was my opinion that I could not get a good able-bodied man to fill the place of a man who had left his gang.

1129. Lord *Stanley* of Alderley.] You do not mean that all your gangs were employed upon that morning?
Certainly not.

1130. Earl

1130. Earl of *Carnarvon.*] Do you happen to know whether there were many gangs of your men unemployed on that morning?
Yes, nearly half of them.

1131. As many as 40?
Yes, nearly 40; I had also men who had been on board; I have men who go on board a ship; when they get on board they are not wanted for that day; then they are at liberty to come back again, and fill up the vacancies which cannot be filled up by a man to be put in a permanent gang; I have the gang-book here.

1132. Lord *Colchester.*] The question which the Committee wished to clear up was this: one witness was supposed to have stated, that there were no unemployed men that morning; another witness, on the contrary, stated that he was sure, from the official documents in the office, that there were nearly 40 gangs unemployed; there seemed to be a contradiction?
I explained that to Farrow, and he might have explained it, if he had been candid, to you.

1133. Are the men upon your books placed by you in gangs, or how are those gangs made up?
They are placed in gangs; there is the basketman's name first; then he is allowed to select eight men to make up his gang; but before they can be allowed to go to work, they come under my inspection; their names are put down, and they are then not allowed to leave except for some little job to benefit themselves; but they are supposed then to form some gang.

1134. When you want an unemployed man, is it somebody that you want to make up a deficiency in a gang?
To make up a permanent deficiency.

1135. Then this unemployed man is a man that you are not in the habit of employing; your regular men are all in gangs?
Yes.

1136. Then when you speak of there not being an unemployed man, do you refer to men not in gangs, but who may be waiting about for employment?
The word "unemployed" is not the term which I meant to use, but the word "unganged;" an unganged man is quite a different thing.

1137. All your regular coalwhippers are ganged?
Certainly.

1138. Therefore an unganged man is not a man constantly employed as a coalwhipper?
He may have been away for a month harvesting, or anything else, and then he applies to be put into a gang; I say, "Very well, I will put you into a gang."

1139. *Chairman.*] Do you remember the number of gangs which there were when the old office closed?
One hundred and twenty-five.

1140. And you reduced the number to how many?
I reduced it to 82.

1141. How did you reduce it at first; did you strike off so many gangs?
No; all the gangs were taken, and all the basketmen taken, and I then gradually sifted them down; men who were good for nothing would not be taken by the basketmen, and others that I am aware of, some good and able men in the office, have gone as coalbackers; there are a large number of coal-backers; the coalbacking is increased by ships coming to the wharf.

1142. Have you ever refused able-bodied men?
Certainly not; I have not refused them myself; the basketman has the selection of them; under the old Act I selected them; but now it is thought better by the committee that the basketman, being responsible for the gang, and for doing his work properly, should select his own men, and if he has bad men it is his own fault.

 1143. Then

Mr. J. Barber.

26th July 1857.

1143. Then have you diminished the number of basketmen?
Yes, as they have left or died off; I have not dismissed a basketman except for bad conduct.

1144. Earl *Vane.*] If a basketman chose to remain and was an eligible man, would you have the power to turn that man off?
Certainly.

1145. *Chairman.*] Could any basketman now applying to you get employment?
He would stand upon the supernumerary list till death or retirement.

1146. Because you limit the number which shall be on your list?
We limit the number on the list; we have the men now at work, and some young men ready to follow; when those young men come on in the room of those who die or go away, they will be placed in the same situation.

1147. Then, only having a limited number of men on your list, must a basketman go and seek employment elsewhere?
No; every supernumerary basketman is a young man, and they are all working in any gang they please; they are working up and down till they are employed as basketmen; they are not out of work; they have no business to go anywhere else.

1148. If a basketman applies to you, he can only be placed on the supernumerary list, and if he wants to work, he must work for other parties; is that so?
Not at all; all the basketmen with us at the commencement were cautioned; we had then 23 young men working up and down, and they had a right to be called in rotation to fill up the vacancies; that has been done. If any other man wishes to be made a basketman, he has to apply to the committee; they take his character, and he is put on the list in rotation.

1149. He is only a supernumerary at first?
At first he is so.

1150. Lord *Polwarth.*] Do you confine your gangs to the number of 82, and no more?
Yes, at present.

1151. You do not exceed that number?
I do not now.

1152. You think that 82 are sufficient to do the coalwhipping work at present required in the river?
I do at this time of the year.

1153. *Chairman.*] Then all others must seek work elsewhere?
Yes, they apply to me; there is no "must" in it, if I may so express it.

1154. You take your gangs first, before the supernumeraries, do you not?
They have no reason to apply elsewhere, when I tell your Lordship that I had not a man to gang.

1155. I ask you with respect to the basketmen; you say that you have only 82 basketmen?
Eighty-two gangs and basketmen with them.

1156. A basketman to each?
Yes.

1157. Any other basketman with a gang wanting employment can only be on the supernumerary list?
The gangs have nothing to do with the basketmen in that shape; I have no gangs applying to me to be employed; the men who are waiting are basketmen and gangs belonging to our office; there are no others applying to us; all the rest are engaged in gas, or anywhere else.

1158. Those engaged, then, in gas and other works you say do not apply to you?
No.

1159. But

1159. But if they did apply to you, what would happen?
If I had vacancies for them, and they were able-bodied men, I should put them in.

1160. But if you had not vacancies, you would refuse them?
Yes, at the moment.

1161. Therefore, if they wanted work as basketmen and coalwhippers, you would refuse them?
Yes; if my gangs were full.

1162. Viscount *Sydney.*] Is it your opinion that 82 gangs are sufficient for the work of the coal trade in the present state of it?
From our office; all others are for gas and other works; it is enough for our office; I have had to break gangs up; I have had 85 gangs; I had no men then, and I broke up those three gangs, and shall break up more with the permission of the committee, because I want the men out of the gangs in my own office to fill up others; they are absorbed, they are not sent adrift; I want them to fill up the vacancies in other gangs, so that they really are not lost.

1163. Viscount *Dungannon.*] Do you mean to say that the gangs, as at present constituted, are sufficient for the general work of the coal in that district, or merely that they are sufficient for the wants of your office abstractedly?
For the wants of the office.

1164. Then you do not mean to say that they are sufficient for the general working and wants of the coal in that district?
No.

1165. I wanted to know whether these gangs were sufficient for the wants of your office, or for the coal work generally; I now understand you to say that they are sufficient for your office only?
Exactly.

1166. But they are not sufficient for the demand as regards the coal generally?
I have nothing to do with the other employers; Mr. Cory comes to us very often for men, and we have none.

1167. Viscount *Sydney.*] Is not the object of your office to meet the demands of the coal trade, independently of those colliers which are whipped by machinery or the steam colliers?
We do work sometimes by machinery, but the object is to supply all those who are willing to come to the office at all times, and at the same time I think that the men should be able to get something like a living from the office; all the men who are willing to work from the office can be employed.

1168. Lord *Calthorpe.*] You were at your office yesterday, I suppose?
I was.

1169. How many gangs were employed?
Forty-one.

1170. And there were 41 unemployed?
Yes.

1171. Is that number commonly the case?
We vary, just as the ships come in; at one time I have not had a single gang but what had been at work, and at another time I have only had 20 at work.

1172. *Chairman.*] There has been a statement given in of the average wages of the men employed from the Coalwhippers' Office; you make the average wages, I think, 18 *s.* 4 *d.*; who prepared this return of the average of wages of the men at the office?
It was prepared by the clerk at the coal market—the clerk to the committee—and it was prepared from documents forwarded from our office up to him.

1173. What is the name of the clerk?
Mr. Stanley.

Mr. J. Barber.

16th July 1857.

1174. Is that the return which Mr. Stanley prepared?—(*handing a paper to the Witness*).
Yes, I have no doubt, from the chairman's signature, that it is; I have no knowledge of it myself.

1175. Who is the clerk at your office?
Mr. Chapman is pay-clerk.

1176. Does he prepare any returns?
Yes, he and Mr. Davids together.

1177. Did he prepare any of these returns?
Yes, he prepared them for Mr. Stanley.

1178. So that he prepares them first, and then Mr. Stanley corrects them?
Just so.

1179. Then Mr. Chapman prepared that return?
Yes.

1180. Lord *Calthorpe.*] I see that those returns are made up to the 26th of June, and the average wages are stated to be 18 *s.* 4 *d.*; how do you account for the evidence which we had on Tuesday, from various men, who said that their wages averaged from 10 *s.* to 11 *s.* a week?
I cannot account for it except that it is not the fact, I believe; but there is this to be said, we take in all the steam ships; I have a witness here, if required, who will tell your Lordships that he has earned above 1 *l.* in that work; and what I stated before was, that some may earn 18 *s.*; above 1 *l.* has been earned in a day, as I stated before.

1181. *Chairman.*] Working how many hours?
Forty-eight, and he did it once in about 24 hours. These men make a statement which is exceedingly cunning on their own side; I gave two statements on the last occasion when I was examined; they take the lower statement, and do not say a word about these men earning 1 *l.* in so short a time; they state how much they earn in a week; but there is a man here who will tell you that it is a sort of promotion to the men, that if we have good men, who will go to steam work, and other work, and work hard, the men are promoted to that work; the others are not able to do it; now, those averages include the two.

1182. Therefore, in putting in the case of a man who works 48 hours, or 24 hours, it is very little satisfaction to a man who does a common day's work, that the Committee may be led to believe that he gets 18 *s.* a week, whereas at a common day's work he would only get 10 *s.* a week?
Thirteen shillings and 14 *s.*, I stated.

1183. Do they not work 24 hours?
Yes.

1184. Viscount *Dungannon.*] Stopping for meals, I suppose?
Yes.

1185. Lord *Polwarth.*] How many hours together will a gang work?
They have worked night and day for 24 hours.

1186. The same gang?
The same gang.

1187. Without intermission?
No; they have had refreshment; that is all.

1188. Is that a common occurrence?
No; these men were not obliged to do it; in fact I had eight gangs, and they were the only volunteers to take this work; and if these men have large families, and have spirit to come forward, I think it is creditable to them that they do so; at the same time the thing was offered to every man in the office, and, therefore, those who did not choose to accept that labour have nothing to complain of, I submit.

1189. *Chairman.*]

1189. *Chairman.*] Do you say that a man has nothing to complain of because he is not able to work 24 hours continuously, with only time for refreshment?
I state that they are not compelled to do it; the documents from which that return has been made can all be forwarded to the Committee; I believe that the young man is depended upon by our committee.

1190. Could not you unload a vessel, if you chose, by having two separate gangs, one gang to relieve the other?
Certainly; it is at their option to do so.

1191. What is the number of tons per hour which has been done?
Twenty-three were once done; that was the best gang in the office; it was a most extraordinary gang.

1192. Lord *Polwarth.*] You have stated that the trade requires only 82 gangs; that that is sufficient for the requirements of the trade; by that I suppose you mean the northern trade only?
I mean all ships which come to the Port of London, and those in the Pool, or including Deptford and Greenwich.

1193. Do you include the Welsh trade?
Yes, the Welsh coal.

1194. You think that 82 gangs are quite sufficient for the work at present?
I have 82 gangs; it is more than sufficient just now, being summer time. To prove that it was just sufficient, and to prove that I have gone as near as possible, I have had every one of them at work, and been obliged to pick up the next man coming on shore.

1195. Viscount *Sydney.*] Do you send gangs down to Woolwich and Deptford?
Yes, anywhere; we have them at Bow Creek, and down to Gravesend.

1196. Lord *Polwarth.*] You are aware that there are other gangs employed by other parties?
Yes.

1197. To a considerable extent?
Yes.

1198. Beyond the 82 gangs which you employ?
Certainly.

1199. Lord *Colchester.*] Are those other gangs employed in the lower parts of the river, or do they come in competition with your men above?
At Woolwich, Mr. Struther has his own servants, I think; and Mr. Coles Child, at Greenwich, employs his own men.

1200. Viscount *Sydney.*] Mr. Struther is a shipowner?
Yes; Mr. Smith, of Deptford, also employs his own men.

1201. Lord *Colchester.*] When you say "employs his own men," do you mean that they are constantly in his employment, or that they are men whom he hires for the occasion?
Men who are constantly in employment in one way or the other.

1202. We understand that there are a number of men either employed by publicans, or who are not in the employment of any regular coalowner or shipowner?
Certainly there are; they are men who have not been selected in our office from their not being able-bodied men.

1203. Do those men compete with your men, or are they employed at different parts of the river?
They compete with our men wherever they can.

1204. *Chairman.*] The consequence is that the price for which coal is whipped is lowered by that competition?
No doubt of it.

The Witness is directed to withdraw.

John Foley.

16th July 1857.

JOHN FOLEY is called in, and examined as follows:

1205. *Chairman.*] WHAT is your employment?
A coalwhipper.

1206. How long have you been so employed?
Twenty years.

1207. Were you employed under the old office?
I was employed previous to the late office which we had; I was employed under the Act of Parliament previous to the Act of 1843. There were several Acts of Parliament passed for coalwhippers; but there was one Act passed to protect them.

1208. Previous to the Act which has just expired?
Yes. There was an Act passed where the captain was compelled, under a penalty, to pay the men on board the ship, and by that means the Legislature thought that they would free the coalwhipper from the exactions of the publicans and others.

1209. How did that Act operate?
It was not the least advantage to the coalwhipper, inasmuch as it was evaded in this way: though the men were paid on board the ship, yet by the circumstances which surrounded them they were compelled to call at the public-house at night, and to call for drink, and to pay for what drink they had had previous to that, the score which they had run up. On one occasion I went home after I had got my money on board the ship for my day's wages. I knew that I had left my wife and children without any provisions, and I was anxious to get home with some money to them, and the next day I was discharged because I did not call at the public-house at night. The foreman of the gang had orders from the public-house not to allow me to go to work the next day; that was during the existence of the Act of Parliament, when the captain was compelled to pay on board the ship.

1210. But that was before the Act which has just expired?
Yes.

1211. Is there any of that same system in operation at present?
Yes; the public-house system is in full operation now, excepting the gangs which are employed at the new office; and the new office, by the change in the mode of paying the men, has a tendency to send them into the public-houses now.

1212. Will you explain how?
The men get out, we will say, on Monday; they are not entitled to be paid until the Wednesday following; the men are needy and in distress, and cannot afford to wait for their money; and the publican advances the amount due to the men to the foreman of the gang which resort to his house in order to secure customers; they get the money then, and the foreman, when he gets the money at the new office, brings it to the public-house, and pays the publican the amount.

1213. Lord *Stanley* of Alderley.] Do you mean that the basketman of the men who are engaged at the office pays the money at the public-house?
Yes.

1214. To your knowledge, he does so?
Yes; I had to submit to it myself.

1215. Lord *Calthorpe.*] Is that done to a great extent?
To a great extent. I have known 14 gangs draw their money at the public-house before the pay-day came on.

1216. Lord *Stanley* of Alderley.] Can you name any basketmen who have paid the men's wages at public-houses within the last week, or within the last fortnight?
Yes.

John Foley.
16th July 1857.

1217. Will you name them?
If you will give me a month, I shall be in a better position to name them, as I wish to be accurate. William Tracey is one; the money was paid at the "City of Quebec." When a gang discharged a ship under the former system at the office established by Act of Parliament, the men got paid for the discharge of the cargo immediately within an hour or so after the discharge. In the new office, they pay only twice a week, and the men in their needy distressed condition are compelled to resort to public-houses in order to borrow money at those houses, and the foreman of the gang, the basketman, gets this money from the publican on the pledge that he will pay him again; he gets that money on the Wednesday or the Saturday, whichever day it may be; if the gang gets out on Monday, or even on Tuesday, he draws the money at the public-house, and he pays the men there afterwards.

1218. He pays the men at the public-house?
Yes.

1219. For instance, we will take the case of William Tracey: do you mean that William Tracey paid the men's wages at the "City of Quebec?"
Yes.

1220. Viscount *Sydney.*] On what day?
I will not mention the exact day; but I can find a dozen or 20 men who will prove that they have received their wages in that manner.

1221. How long ago did William Tracey pay the gang at the "City of Quebec"?
The last ship which he discharged.

1222. Lord *Stanley* of Alderley.] Can you name any others?
I can.

1223. Will you be so good as to do so?
There is a man of the name of Varlow.

1224. Varlow paid wages at what public-house?
At the "Swan" public-house, kept by a man of the name of Dorell.

1225. Within about the same period?
Yes.

1226. *Chairman.*] Could you give in a list of men who have paid wages at a public-house?
I think, if your Lordships will receive a list, I can furnish your Lordships with a list of the names of the men who have so paid; and I will be prepared to prove that they have paid the men at the public-house themselves.

1227. We shall be glad if you will do so?
I will.

1228. Lord *Polwarth.*] The public-house keeper takes the credit of the basketman as preferable to that of the men, does he not?
Yes, he takes the basketman's word for the money.

1229. He advances it out in drink to the men?
He advances drink to the men.

1230. And he takes the word of the basketman for the payment?
Yes. I am not a basketman myself. When a ship is discharged, the poor men, in order to get their money immediately on discharge of the ship, are compelled to consent to drink, or to resort to the house.

1231. Part of the money is already absorbed by drink?
Yes; and the publican will lend to none but those who resort to his house.

1232. Viscount *Dungannon.*] Supposing you say that you will not drink, what happens then?
I shall not get the money.

1233. But you must be paid for your labour?
Yes.

John Foley.

16th July 1857.

1234. Lord *Stanley* of Alderley.] The office pays the wages twice a week?
Yes.

1235. On Wednesdays and Saturdays?
Yes.

1236. *Chairman.*] And the old office paid as soon as the work had been performed?
Yes.

1237. Lord *Stanley* of Alderley.] The men can get their wages twice in the week?
Yes.

1238. Lord *Calthorpe*] I understand the men to whom you have just referred to be independent of those who are employed regularly by the publicans?
These are men who are employed by the present office.

1239. Therefore those who are employed by the publicans are a separate class?
Yes.

1240. Viscount *Dungannon.*] Those who are employed by the publicans are worse off than the others?
Considerably.

1241. They, I suppose, would be discharged by the publicans if they did not spend a certain quantity of their money in drink?
He would not employ a man of them; the case of a man not having a sufficient score to come up to the rest, is a sufficient ground to leave him out when they are making up the next gang; in the next gang they will not employ him. Under the Act of Parliament the coalwhippers commonly could not afford to wait long, and when their contract was finished, and the work performed, and the ship discharged, they received their money, and took it home. In the new office it was a portion of the pledge which the parties gave to the Government, that they would carry it out in the same spirit as the Act of Parliament carried it out; they broke faith with the Government, and the Government broke faith with us.

1242. What is generally your average of wages?
For the first five months of the office, 10*s.* 9*d.* was my average wages at the Coalwhippers' Office.

1243. Is that since the Act expired?
Yes.

1244. What were you in the habit of receiving before the Act expired?
I think the average earnings before the Act expired came up to from 14*s.* to 16*s.* When work was what we called brisk, in one season it would average 16*s.*, and in another 14*s.*

1245. Shall you not be likely to average 15*s.* and 16*s.* again as matters now stand, now that the Act has expired?
No, we cannot do so now; and even were we employed as permanently under the new system, as we were in the Act of Parliament office, we should not earn as much money, for this reason, that what we call the best work is done outside the office, the most advantageous work, and the easiest work to perform, and that which pays best, that is gas factory work; they are a small quality of coals, and it is very easy work, there is not half the labour in working them as in the large coals.

1246. Lord *Stanley* of Alderley.] Were not the Gas Companies allowed to whip their own coals by their own servants under the Act of Parliament?
No, not without an evasion of the Act.

1247. But they did it?
Yes; and we had several trials at the Thames Police Court, when the Act was evaded during the 13 years that the Act was in existence.

1248. When was the last time that you had any employment in whipping a ship?
I have not had any employment in whipping a ship these six months.

1249. Have

1249. Have you not applied at the office?
No.

1250. Why have you ceased to whip coal?
It was not procuring me a living.

1251. What have you been doing since that to obtain a living?
Since then I have got a living in this way: I had an agency from a life assurance company for a time; the agency was not advantageous to me; during the Act of Parliament I was 12 months as an agent for the Age Life Assurance Company, and I then gave up the agency, and went back to the work, thinking I could get more money at the work than the agency produced me; then, when the work got so bad, after the first five months of the office, I again applied at the life assurance office, and accepted an agency.

1252. Are you still an agent for the assurance office?
Yes, at present. I have not for these six months worked at coals.

1253. *Chairman.*] Can you explain to the Committee how, in the statement furnished to them, the average wages per man are put at 18*s.* 4*d.*?
I will state to your Lordships satisfactorily the reason why they put in that average: they select four gangs, or six, and they send those men to work, and they work night and day on board the steam-ships; when they go first on board the ship they remain there; the time of steam-vessels is so valuable, that I believe it is an understood principle in the trade that they get the quickest despatch they can give them, in order that they may go back again. Two gangs are sent on board a steam-boat of 700 tons, and they do not leave off until they have cleared that steam-boat; they have taken that average, and put it in as the average of the coalwhippers; it is not a just average at all.

1254. How long do you suppose that men can stand working night and day as they do?
In my best day, 20 years ago, I would not wish to work more than three days a week at coalwhipping. Suppose there was a ship of 300 tons, and the merchant required the coals in the first three days of the week, I would not wish for any more employment that week, it is of so laborious a character.

1255. Lord *Stanley* of Alderley.] How many hours do you reckon each day?
We could clear a ship of 300 tons in three days, of 10 to 12 hours each day.

1256. *Chairman.*] How long can a man stand working night and day?
It would be a moral impossibility for him to stand to do two ships successively; when a boat is discharged, two or three days intervene before they get employment again, and they have that time to recover themselves.

1257. You have stated about these men going to the public-houses; has the number of public-houses increased since the Act has ceased?
Yes.

1258. Can you speak of your own knowledge upon that subject?
Yes. There is a house in the neighbourhood where I live, which was doing a good business, and used to sell as much as four, five, or six butts of beer a week previous to the Act of Parliament being passed; and when the Act of Parliament was passed, the party let the house, and got 1,700 *l.*, as far as report goes, for the lease and good-will of his house. The party that took it after the Act of Parliament passed was obliged to give it up. The house was shut up. Three or four people took it. One man, as a fighting man, took it at the water-side, and thought he could get a living at it; he was obliged to shut it up again; it was shut up three times, and then no one would venture to take it at all till the Act expired, when a captain of a vessel has taken the house.

1259. Has he any vessels in connection with him?
By being the master of a vessel he has influence with other captains, and they bring the ships there to work, and they employ five or six gangs.

1260. Lord *Stanley* of Alderley.] Where does that vessel come from?
I do not know where the vessel is that Mr. Walker belongs to.

John Foley.

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1261. Do you know to what port she belongs?
I shall be able to furnish you with the name of the vessel, and where she belongs, on another occasion.

1262. *Chairman.*] Then will you do so?
I will.

1263. What is the name of the public-house?
The "Golden Anchor" it is called.

1264. What is the name of the owner of the house?
Walker.

1265. Do you know of any other public-house?
There are other houses which were doing a very slack trade indeed, and which exchanged hands several times; nobody coming into the house could get a living in it until the Coalwhippers Act expired, and then they took the houses on speculation, expecting to bring work to the houses.

1266. Can you furnish the Committee with the names of any other public-houses which are now doing a good business in consequence of the Act having expired?
Yes.

1267. Lord *Stanley* of Alderley.] Can you form any opinion of the number of gangs which are engaged at public-houses at the present time?
Yes; I will furnish your Lordships with the names of the ships.

1268. *Chairman.*] You went down purposely to take an account on one or two occasions, did you not?
I went out on four days on the river with a waterman, and took the name of every ship in the Pool at work, and where she was at work from, and I have the list: July the 11th, that was last Saturday, there were at work on the river 71 ships; there were 30 at work from the new office, and 41 outside it, which did not work from the office.

1269. Lord *Stanley* of Alderley.] How many of those 41 were worked through publicans?
Sixteen direct, and nine I could trace indirect.

1270. *Chairman.*] Explain what you mean by indirect?
I refer to the Gas Companies who employ their men; the men get beer at the public-houses; they have some influence.

1271. Lord *Stanley* of Alderley.] How many of those 41 ships were worked by Gas Companies?
Nine by Gas Companies.

1272. Had Mr. Cory any?
Yes, Mr. Cory had some ships, but I do not include Mr. Cory's working in what I can trace indirectly to the public-house system.

1273. How are the 41 composed; you say 16 by publicans, nine by Gas Companies; how many by Mr. Cory?
There are five on this list. I think it was five in all that he had at work on that day.

1274. Were any of them by the crews of the ships?
I did not see one worked by the crew; it has not come under my notice. In this statement some ships work at Blackwall which are in the habit of going up to a Gas Company up the river in one of the little bye-rivers, and I did not go so far as to make that examination; there might be two or three ships there from the office.

1275. You say that of the 71 ships worked, 30 were worked from the office and 41 from other sources. Of those 41 you say there were 16 by publicans, nine by Gas Companies, and five by Mr. Cory; how do you make up the others?
A man of the name of Regan had one or two.

1276. He has servants of his own, has not he?
No, he never was sufficiently respectable to have servants of his own.

1277. However,

1277. However, he professes to have servants of his own?
Yes.

1278. *Chairman.*] What is Mr. Regan?
He is a very low lodging-house keeper; he happens to be a countryman of mine; he has been a man that the captain chose to go to while we had our office in existence. When an offer was refused at our office, and the captain made a lower offer than we accepted, he was at liberty to go, and this Regan went to the Dock gates, and took thence men that he supplied to captains during the existence of the office, and those few ships continue to go to him still, I believe.

1279. Lord *Stanley* of Alderley.] Who are the others making up the 41?
There was one worked by a man of the name of Jeffrey, a butcher; there are four altogether for Regan. There is another worked by a man of the name of Finnigan. There is Barker, his men are employed working at a public-house.

1280. Still Mr. Barker employs them?
Yes.

1281. Lord *Polwarth.*] How many did Mr. Barker work?
There are three for Barker; then there is one for a man of the name of John Nunn; I think there are two for Jeffrey.

1282. Have you found two for Jeffrey?
Yes.

1283. *Chairman.*] That was on Saturday last?
Yes.

1284. I believe you were down some time ago, in the beginning of the year, taking notes of the same thing?
Yes, I went out on some other days with a waterman, to see how many ships there were at work; and your Lordship has the result of the inquiry in a tabular form.

1285. The ships on the 19th of February worked by the office were 29; ships worked by agents, 7; ships worked by publicans, 16; total, 52?
That is right.

1286. Twenty-eighth February, ships worked by the office, 28; worked by agents, 16; worked by publicans, 12; total, 56?
Yes.

1287. March the 6th, 38 ships worked by the office; ships worked by agents, 14; worked from public-houses, 17; total, 69. April 18th, worked by the office, 52; worked by agents, 11; worked by publicans, 31; total, 94?
That is right.

1288. Lord *Stanley* of Alderley.] You have ceased coalwhipping, you say, for upwards of six months?
Yes.

1289. What makes you take such an interest in the matter still; do you mean to return to the business?
Yes, if I could get a living at it I would still continue; I always consider myself a coalwhipper.

1290. But you are not connected with it now, I suppose?
Still I look upon myself always as a coalwhipper; I was one of those men who had a hand in bringing the matter before the public; I was one of the former committee of coalwhippers that was working the matter up previous to 1843.

1291. Then you have been employed by the coalwhippers to advocate their cause?
In that case I have been their chairman, on many occasions, at public meetings.

1292. *Chairman.*] Before the Act?
Yes; and during the existence of the Act, when there was a service of plate presented to Mr. Hobler; we paid 6*d.* a man, and presented Mr. Hobler with a service of plate worth about 50 guineas; I was in the chair on the occasion of the presentation of the service of plate to Mr. Hobler.

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1293. Lord *Stanley* of Alderley.] Are you chairman of the Coalwhippers' Association now?
I am chairman of the coalwhippers' committee.

1294. Viscount *Dungannon.*] Then you would go back to the coalwhipping if you could see any fair prospect?
Yes.

1295. As it now stands, you do not see such a prospect?
I do not.

1296. And you think that you are better doing something else?
I am better doing anything rather than that.

1297. Lord *Polwarth.*] You have mentioned that you object greatly to the system of going to public-houses from the office, that is to say, that although the money is paid at the office, the men are still obliged to go to public-houses?
Yes.

1298. With respect to the Gas Companies, are the men who are employed by the Gas Companies also obliged to go to public-houses?
Yes.

1299. Do hardships arise out of that?
They naturally must arise out of it, because although the men are not taken and told "You must go there," if they do not go there, they are not employed; the rule is well understood with coalwhippers; if a man does not come within the scope of that rule, he need not expect to be employed in any of these Gas Companies.

1300. Unless the basketman, then, takes his men to the public-house, the basketman need not expect to find employment?
It is not the basketman, the lighterman lightering the coals, having an interest in some public-house, resorts to that public-house, and from whatever system there is between him and the foreman, the men go to the public-house when they come home at night, and they go there in the morning, and take a bottle of beer from the house; they resort to the house.

1301. Lord *Calthorpe.*] In point of fact, do the publicans supply the Gas Companies with coalwhippers?
Not directly; but in an indirect manner.

1302. Lord *Polwarth.*] If an individual speaks upon that object, does he come under the censure of any parties if he makes it known that he is forced to go to a public-house?
Yes; there is the case of a man who gave evidence before your Lordships, a man of the name of Finn, from the Gas Company, and he was discharged; he was not let go to work yesterday or to-day; he is outside in the lobby now.

1303. *Chairman.*] Then in consequence of that evidence he has been discharged?
He has been dismissed.

1304. Viscount *Dungannon.*] Where did he work; somewhere near Vauxhall, did not he?
For a Gas Company. The coals that are burnt at the Vauxhall Gas Works are worked down upon the river.

1305. Lord *Stanley* of Alderley.] Was he dismissed on account of the evidence which he gave?
Yes.

1306. Was it because it was stated to be true evidence or false evidence?
He was dismissed because he had had the assurance to come up to give evidence against the Gas Company.

1307. Earl *Vane.*] How do you know that?
He is here to prove it for himself.

1308. Viscount

1308. Viscount *Dungannon.*] Then he is at this moment out of employment?

Yes; that is his statement to me.

1308*. Lord *Polwarth.*] You do not know whether he was in full employment before?

He was regularly employed by this Gas Company when they had any work to do.

1309. Lord *Stanley* of Alderley.] Was it stated that he was dismissed in consequence of his having given evidence before this Committee?

He stated so to me this morning.

1310. Viscount *Dungannon.*] Who dismissed him; does he say that it was the lighterman?

The foreman had orders from the lighterman to dismiss him.

1311. Did he say that he was told that it was because he had come here to give evidence?

Yes.

1312. *Chairman.*] Under the former Act there was a provision that Gas Companies and others might work by their own servants, was there not?

Yes.

1313. That was often evaded?

In many cases. We had several cases at the Thames Police Court, and obtained convictions in some, and in others we could not trace the evidence home clearly enough to satisfy the magistrate.

1314. That was a deficient part of the Act?

Yes. If your Lordships will allow me, I will explain to you the reason of that clause being kept in the Act of Parliament. There are several masters of vessels who employ their men by the month, and in the by-ports the traders are in the habit of discharging their own coals; and, in order to give masters the opportunity of getting their own seamen to discharge them in the Port of London, if they so chose, the Legislature kept the clause in the Act of Parliament to permit those captains, if they chose, to get their crews to work, or a portion of their crews to work, empowering them so to do. That clause was taken advantage of by large purchasers of coals, who went and hired men, and paid them weekly wages, and called them their own *bonâ fide* servants. It was so difficult to prove it, that we had several cases, and we engaged some of the most eminent lawyers; Mr. Hawkins was once down at the Thames Police Court pleading the case for us. There is a young man at present outside, counsellor Furnival, who has gone several times down to the Thames Police Court to plead the case for us, and he saw the Act evaded by that *bonâ fide* clause. The Legislature did not contemplate that the coal merchants would infringe upon the Act, but they took advantage of it, and infringed, though we gave them a little vexatious opposition; we used to summon them when we found an opportunity; and I think it is that vexatious opposition which we gave them that has induced them to get parties to oppose the re-enactment of the Coalwhippers Act; my statement does not refer to those parties. From what I have seen during the agitation of the coalwhippers, I am of opinion that many of those men who signed this document to the Board of Trade, had they known the real circumstances of the coalwhippers, would never have put their hand to a document injurious to such a poor, hard-working body of men as we are.

1315. Do you think that those men employed at the office would be willing, together with those unemployed, that the Act should be re-enacted?

Yes; we had a meeting last night, and about 800 men were there. There were some statements made before your Lordships, and we called a public meeting last night and put out bills; we invited Mr. Barber and Mr. Forster to attend, to prove the statement which they made before your Lordships, that nobody was idle. This is a copy of one of the bills (*producing the same*); I was at the meeting of yesterday, when every man, publicans, men and all agreed that they would be satisfied to get an Act of Parliament.

1316. Lord *Polwarth.*] For what purpose, and to what extent?

To protect them from the present system under which they are employed.

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They begin to find, I think, that if the system is allowed to go on without legislation, the great portion will go back again. When we find that the large pitowners, and shipowners and merchants, who have formed themselves together, putting out their strength and all their force at the first commencement, could not secure the whole of the work to that office, we are under the impression that it will eventually be a failure, by-and-by.

1317. Can you explain the main points of objection to the present system?
The main points of objection to the present system are, that the men fear that it has a downward tendency to go back to the old system again.

1318. Will you point out to us the way in which you think that you are going back to the old system; you have an office?
The manner in which we are treated at that office is not anything like the mode in which we were treated under the Act of Parliament; they can discharge a man as they like there, or send him about his business; he has no means of redress, and they will grant no redress. We several times wrote to the committee, which sits in the Coal Exchange, of which Mr. Forster is chairman, for an interview, to explain some of the matters which we felt aggrieved about, and he never would give us an interview; he always told us to write.

1319. *Chairman.*] Do you know anything about there having been Acts of Parliament before the one which has now been repealed?
Yes; I remember that there were several Acts of Parliament; there were three coalwhippers hung before the first Act, for what was called the coalwhippers' riot.

1320. Do you think that there could be any arrangement made with the men without going actually to the old Act?
I am fully convinced that nothing short of legislative enactment would work satisfactorily.

1321. Supposing there was a legislative enactment, would there be any means by which wages could be regulated by a committee of coalwhippers, and by which the men should all be registered, and the evils of the public-house avoided?
I am afraid that nothing short of legislation would find the parties on the other side; we should be willing to submit to it if it was amicably entered into; we should have no objection at all to any arrangement of that sort; but from the state of the coal trade, agencies must always arise, and the agency established by the Act of Parliament was the fairest and the most satisfactory that the coalwhippers ever knew or had had any notions of.

1322. Lord *Stanley* of Alderley.] Is it your opinion that there could be no regulation which would be satisfactory short of the re-enactment of the past Act?
It is my opinion.

1323. And the operation of that Act is, that it shall be compulsory on all parties to take coalwhippers from the office; and that as many men as choose, either stout men, or comparatively less stout men, may put their names in a list, to be employed as their turn comes?
I am of opinion that that Act could be passed with satisfaction to the employer and the employed.

1324. *Chairman.*] Then you think that that Act might be so far modified as that men not able-bodied should not be on the register?
That Act could be modified, so as to give great satisfaction to every impartial man in the kingdom.

1325. Under that Act, parties were not obliged to take men from the office, if they could get anybody to do the work at lower wages?
They were not. There was a very wholesome clause, to keep us in check from raising the wages too high.

1326. Just shortly explain that?
The clause in that Act left the captain of a ship to come in and offer 6*d.* or 7*d.* a ton, when we were working at 8*d.*, according to the provisions of the Act; he offered an amount which we refused to work for, say 7*d.*; then he went away first

first for an hour, then at the end of the hour, if he came back and made a second offer, and if that offer was not accepted, he could go and take men where and how he liked.

1327. Then he was not obliged to take men from your office if he could get the work more cheaply done?

Not at all; and as to there having been inefficient men in the office, a gang was sent directly it was wanted; every complaint was attended to, and there was a committee of gentlemen appointed to regulate the trade, and they took very good care that we did nothing to militate against the trade.

1328. Were there any strikes during that time?

Yes. I was one of the men appointed by the coalwhippers to go on the coal market and consent to reduce our wages; then we had to strike to get them up again.

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned to To-morrow, half-past Two o'clock.

Die Veneris, 17° *Julii* 1857.

LORDS PRESENT:

Duke of CLEVELAND.	Lord POLWARTH.
Earl of CARNARVON.	Lord CALTHORPE.
Earl VANE.	Lord COLCHESTER.
Earl of DURHAM.	Lord RAVENSWORTH.
Viscount SYDNEY.	Lord ROSSIE.
Viscount DUNGANNON.	Lord STANLEY of Alderley.

THE LORD ROSSIE in the Chair.

Mr. HENRY MORTON is called in, and examined.

1329. Lord *Stanley* of Alderley.] WHAT is your employment?
I am agent of Lord Durham in the management of his collieries.

1330. You have been, I think, for a long time acquainted with the coal trade f the north?
I have been his agent and his father's together for 30 years.

1331. Will you be good enough to state to the Committee what the objec- ions were which were entertained by the coalowners to the system which xisted under the old Act for coalwhipping?
In the first place, one great objection was the price, which was then 9*d.*

1332. *Chairman.*] Was it 9*d.* before the Act, or after the Act?
About the time the Act passed it was 9*d.*

1333. It was in evidence that it was 10*d.* before the Act?
Yes, it was 9*d.* then; and the late Lord Durham and Lord Ravensworth, and ome other coalowners, felt this a very great tax upon coalowners, and they rected some machinery at Blackwall for the purpose of delivering the coals here.

1334. Lord *Stanley* of Alderley.] Were there any other objections which vere entertained to the system which was then in action?
It was considered to be an interference between the employer and the em- loyed, and we wanted to be free of any legislation between the employer and he employed, which answers no good purpose; on the contrary, it is injurious.

1335. Do you consider that you are paying more for the work than you ought to pay, and that you could obtain it from other sources at a cheaper ate?
We were induced to erect machinery, and got the work done per ton at 5 ½ *d.*; but it is seven years since this machinery was transferred to some other parties. That was the first machinery that was erected upon the river. Since hen there are a great many machines erected upon the river for unloading coals, and you can work cheaper with half the men employed.

1336. At what price do you work the coals by means of machinery?
At 4 ½ *d.*

1337. Has the increase of machinery extended since that period?
Yes; there was only a small machine before that which I have alluded to,

Mr. H. Morton.

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some distance down the river; but since then is has increased, and it is rapidly increasing every year. The West India Docks are full of hydraulic cranes, and those works are extending.

1338. You have stated that the high price at which the coal was whipped induced Lord Ravensworth and Lord Durham, and other coalowners in the north, to erect machinery; you state that that was the reason?

Yes; we felt that, amongst other things, that was one of the principal objections.

1339. You have stated that the machinery has been gradually increasing since that time?

Yes.

1340. Is it not your opinion, that if any attempt is made to keep up wages beyond what is the natural state of wages according to the labour market, there will be an increased tendency to erect additional machinery, to substitute that for the men who have been employed in coalwhipping?

Decidedly.

1641. Entertaining the objections that the coalowners did, will you be good enough to state to the Committee the course which the coalowners took in engaging to establish an office, to be substituted for that office, for the purpose of engaging men to be employed in coalwhipping?

In the first place, they thought that they did it at a cheaper rate, by conducting the office properly; and, in the second place, to prevent the influence of the publicans over the workmen; because I am informed by an agent here, that many gangs were employed by publicans to deliver coals during the existence of the late Act.

1342. The factor that lives in London?

He is our agent merely, and lives here.

1343. During the existence of that Act many cargoes were whipped by publicans?

Yes.

1344. Have you experienced any benefit from the change, in consequence of the establishment of a new office, and are you satisfied with the present operation?

Perfectly. I took a great interest, and all the coalowners in the north did so and we sent them 500 *l.* to enable them to buy tools and establish the office. A new system cannot be worked well just at the commencement, but every day it is improved, and if it is not interfered with it will be a great boon both to workmen and employers.

1345. Has it reduced the cost at which you have whipped your coal considerably?

Yes.

1346. Has the character of the labour which you have got from the office been of an improved description, and such as enabled you to get through your work with much more expedition?

Yes; the great fault with the old Act was that men, when let out of gaols, for instance, were allowed to go to the office and register their names; and the consequence was that they had full one-third more than could be fully employed, and they wanted to divide the work among them. The description of labour would not improve under these circumstances, because the best men would leave, and the bad ones would remain only.

1347. Under the old office, there would be a greater number of men than was wanted to do this work; but these men were, many of them, of an indifferent moral character?

Yes, a great many.

1348. In all those respects you consider the men supplied by the present office are very superior to those whom you had on the former occasion?

Yes; they are taking means to get rid of the old inefficient men, and they

they are employing the best men, and giving them full work; and from what I see, the wages are not to be complained of under the present system.

1349. We understood that the wages earned by the men are very low; is that so?

No, I think not; I think they are very high; at least I think they are very good.

1350. Do you know the amount of wages which the men can earn?

Yes. There is a custom, I should inform you, in the trade of London, that the buyers will not undertake to deliver more than 49 tons per day; there is no Act for it, but that is universally followed, and the buyers will not submit to anything else; and if they despatch a vessel sooner, they charge what is called "despatch money;" that is, a small ship which pays 15*s.* a day every day, she is sooner delivered than if delivered at the rate of 49 tons each day. I understand that a gang of nine men can work 119 tons between eight and nine hours, which is not an unreasonable day's work; and that, at even 6*d.*, amounts to 6*s.* 6*d.* a man per day.

1351. That is for the day's work?

That is for the day's work. Even the average rate throughout the port of London in the deliveries, is about 66 tons weight, and that at 7*d.* a ton. They make a difference if there is above 100 tons delivered; if above that number, 6*d.* only is paid; if it is less, 7*d.*; at 7*d.* would give them 3*s.* 6*d.* a day, which would not take them above five or six hours' labour.

1352. In stating that that is the amount, you mean that those are the wages when the men are employed, but you do not state the amount of weekly wages they get, and the amount of work which is always ready for them?

I understand that it is the intention of the office to reduce the number of men, so as to give them constant employment; and the reduction of the number of men is one of the circumstances that has been so much complained of.

1353. You have heard that it has been stated that there is a great deal of work, and that these men only obtain two or three days' work in the course of the week, so that they are in a very destitute condition?

It is no great distance from here to Durham; and if the men come down there they will get as much labour as they like; we cannot get sufficient labourers on the spot.

1354. What description of employment could you give them if they came down to the north?

They would get very much the same sort of employment that they have here; they would not have so severe employment; they would be employed in upper-ground work; men grown up do not often go down the pits. They would get 3*s.* a day, a house and coals, and constant work, if efficient workmen.

1355. Do I understand that you see no difficulty in transporting any number of these men that might be unable to get work in London, and to find them employment in the north?

None whatever; for Lord Durham has a steam vessel that sails every week, and goes down empty, and would carry them at a very cheap rate.

1356. Would you be willing to take them down at a small cost if they would engage to work for any given period?

We would take them down for no charge at all.

1357. *Chairman.*] Has any attempt been made to induce them to go?

I have not heard of it; but we have a great many men in our collieries, for instance, Irishmen, who are working down the pits; and there are also a great many above ground. I may mention that Lord Vane's father brought a great many in one of the strikes so far back as the year 1844 from Ireland.

1358. Lord *Stanley* of Alderley.] Do you think it would be open to very great objections if the old office were to be restored, and the present system established?

I think it would be almost impossible to establish it, because every opportunity would be taken to erect machinery, and you would not have employment for half the men you have at present.

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1359. The result of the attempt to raise wages even if successful at first, you think would cause the erection of a great deal of machinery to do that which is now done by men, and that in the end there would be a great scarcity of employment?

I think that four men with machinery would do as much as nine without. It would reduce the number of men one-half. It gives us more facility in delivering coals, especially with steam-vessels which we pay 5*l.* a day to give despatch.

1360. Is it not a fact, as stated in the paper, that there has lately been constructed a steam-vessel of 1,500 tons, to take coals from Wales to London, the whole of which will be shipped by machinery?

Yes; I saw one of the partners this morning, Mr. Cory; and Mr. Taylor told me so last Saturday in Newcastle.

1361. And is it not the intention of other coalowners to adopt a similar course?

It will never entirely force itself upon other coalowners.

1362. Earl *Vane.*] Will you be good enough to state, to the best of your belief, to the Committee what is the general opinion of the coalowners in the north with reference to the employment of what may be called publican gangs?

There is no person more opposed to that than I am myself. In the north we do not allow one farthing to be paid in a public-house. The coalowners are all decidedly opposed to it. We do not allow a farthing of wages to be paid at public-houses. The wages are all paid at the offices.

1363. To the best of your belief, have the coalowners in the north studiously adhered to the arrangement originally laid down by the Board of Trade?

Yes; they have, and they are still willing to make greater efforts to establish this office, because they think it is establishing the system on a proper footing, that there should be no interference between the labourer and the employer; and they are very willing and anxious to carry it out.

1364. Lord *Stanley* of Alderley.] Did not the coalowners in the north contribute a considerable sum of money for the purpose of establishing the present office, and putting it in order?

Yes; we sent 500*l.*

1365. *Chairman.*] I think you stated that you considered it impossible to establish the old office?

You might establish it; but I think it impossible to carry it on, because it would lead to erecting such a quantity of machinery that you would not have employment for half the people.

1366. Lord *Stanley* of Alderley.] But you have stated that you can work coal by machinery for 4½*d.* per ton?

I think you can.

1367. Do you not think that your being able to work at that low rate would be an inducement to parties to erect machinery?

I think it is a great inducement.

1368. You have also stated that there are many parties now engaged in erecting machinery?

Yes.

1369. So that there are other inducements to erecting machinery besides the establishment of the old office?

I stated before that there are greater facilities given by using machinery. You can deliver the vessels more rapidly, which is everything to a coalowner, because every day you stop here you pay an additional freight. For instance, if a ship is not sold when she comes up to market, for every market-day 1½*d.* is added to the freight.

1370. Therefore, whether the old office is established or not, the inducement is such as stated by you, and the machinery will continue to be established?

It will so; but if the old office is established, I do think it will be done much more rapidly. Those old systems will not work now. There is so much competition, that you must adopt the plan that will give you the greatest facility and most economical; you are compelled to do it, in fact.

1371. You

1371. You stated that from some communications you have had from the office, it is their intention still further to reduce the number of men, till they can insure employment enough for the men at their office?
Yes; they told me so at first. I have not been there very lately, but I was there some time ago when it was first established, and they said that that was their intention.

1372. You have no means of knowing the number of men who were employed at the old office just before its close?
No; but I understood that there was fully one-third more than necessary to do the work.

1373. Supposing a third, and gradually amounting as they reduced the office, and a fourth are driven from the office as it were, they must seek employment by other means, either through agents or publicans?
If they would go into the country, there is plenty of employment there In Berwickshire and Roxburghshire, a gentleman told me the other day, they could not get labourers in those districts.

1374. But if they continue as coalwhippers, they must go to other parties?
Probably.

1375. You stated that the price paid at the office, 10 years before the expiration of the Act, was 9*d.*; was that the lowest price ever paid at the office?
I believe so.

1376. It was never lower than 9*d.*?
It may have been 8*d.*

1377. You cannot speak of your own knowledge to the price?
No; only from what I have heard from time to time.

1378. So that, as far as that goes, your evidence is only hearsay?
Yes.

1379. Have you heard what is the price now?
It is 7*d.* for small quantities, and 6*d.* for large quantities. If they work 119 tons they get 6*d.*, which gives them a very large day's wage; and they can do that, I am told, and not more than a fair day's work.

1380. You think that the old office was the means of keeping up the wages?
I have no doubt of it.

1381. Are you perfectly cognisant of the terms of the Act?
No; I am not perfectly cognisant of the terms of the Act, but merely what I have generally heard of it. There were a great many gangs kept by the public-houses during the existence of the late Act.

1382. You are not aware of the terms of the Act?
No.

1383. Then you do not know, of your own knowledge and not from hearsay, that parties under that Act, if they could not get the work done below the price named by the office, were at liberty to go elsewhere?
I have heard the terms discussed; I never read the Act.

1384. Therefore, if a man did not like to go to the office, he had only to offer something lower, and they had to go elsewhere?
No; he went to the office, and offered them a price, and he had to wait a quarter of an hour for an answer; and if they did not choose to accept it, they gave him a certificate that he had been at the office, and that he was at liberty to go to the publicans afterwards; but he was not at liberty to give more price than he offered at the office.

1385. He employed agents?
Yes; to get men in the best way he could.

1386. And you stated also that during the operation of the Act, men were employed by public-houses?
Yes; I am told so by our London agent; he says, great numbers of them were employed by publicans.

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1387. That was in contravention of the Act, was it not?
There was no penalty for doing so, and it was frequently done.

1388. Do you know how, in contravention of the Act, gangs were adopted in this way?
I do not; but I know that a shipowner would come from Sunderland to London; he would go to the office, and offer them a sum; he was obliged to give them a quarter of an hour to consider whether they would accept his price; then he was at liberty to engage men elsewhere, but not to pay more than what they had offered to do the work at.

1389. Are you not aware that under the Act parties could employ what they term their *bonâ fide* servants, and that under that clause great abuses arose from their engaging men?
The large coal-merchants had gangs of their own; they did not go to the office; any person was allowed to employ gangs of their own, provided they were employed six consecutives previously by the said parties.

1390. Was that provision of the Act maintained which rendered necessary that *bonâ fide* servants should have been in the office?
I do not know how it was carried out; I should think not.

1391. Now, you state that under the old office you were obliged to take a gang, however inefficient?
Yes; the gang that they sent to us.

1392. Do you not know that a captain has complained of a gang for the purpose of getting another gang?
I have heard of these things being done; but the captain became unpopular. A Sunderland captain was almost torn to pieces; he had made some complaint against them, and when he came back to the office he was obliged to make his escape, or he would have been thrown into the river.

1393. Maltreated?
Yes.

1394. By the men in the office?
By the men about the office.

1395. Do you know any case of captains having any connexion with public-houses?
No; I have nothing to do with captains.

1396. You stated that you could give work to men, and take them down free of cost?
I would give them a passage down.

1397. What description of work would you give them?
About the upper ground; I suppose they would not go below ground; but they must be efficient men.

1398. How would that be looked upon by the other men there; would not that be looked upon by the other men as an attempt to reduce their wages there?
No, not at all. There are a great many Scotch and Irish, and Welsh too, in our neighbourhood.

1399. You stated that on the occasion of a strike, Lord Durham, or some of the coalowners, brought over a number of Irish people?
It was the late Lord Londonderry.

1400. Did that put an end to the strike?
It helped very much to do so.

1401. You think that a number of men being taken down by you from here, would not be looked upon by the people in the light of its being an attempt to reduce their wages?
No. In that strike in 1844 we brought a number of men from Wales, about 1,000 colliers; and there are a great number of them with us yet; but it is always the case, that the worst men come in that case, and many of them went

ent home again; but there were a great many very excellent men among em.

1402. *Chairman.*] You stated that you were satisfied with the present system, cause it had reduced the price?
Yes; we do not like to pay more than is necessary.

1403. Has the price of coal to the consumer diminished?
It is very low just now.

1404. Has the price diminished the last few years?
It is like all other articles at market, it fluctuates; the price depends upon the pply and demand.

1405. You have also stated that the coalowners have contributed towards the tablishment of this office?
Yes.

1406. It has been stated to the Committee that the reduction in price of the *d.* and 2*d.* makes a considerable difference to the coalowners?
Yes; it depends upon the quantity he sends here to market.

1407. But sending a large quantity, the price is considerable?
Yes.

1408. Therefore, do you not think that out of that large gain they make of 1*d.* 2*d.* cheaper working, they could afford to give something towards the office?
I think not. I do not think there is any trade in which there is less remu-eration than the coal trade; there are, it is true, some fortunate individuals in but these are not many; and if you will be good enough to refer to the evi-nce which was given by the late Mr. Buddle, he stated in the House of Lords at upon the whole of the concerns in the Tyne, taking bad and good, he did ot believe they paid five per cent. on the average.

1409. So that although a very large sum has been stated to have been saved, t still they could not afford to pay the 500*l.*?
The wages in the north have risen in the last four years 25, if not 30 per nt.; and I assure you that the coalowner, like all other tradesmen, must cut near the way as possible.

1410. Therefore you think that the encouragement of competition between is office and those not employed in this office, which has a tendency to reduce e wages, is the only way in which you can make coals pay?
It is not the only way; but it is one among many; why should coalowners called upon to pay more for labour than it can be obtained for in the open arket?

1411. It is one among the many means?
Yes; and I take it to be a fixed rule with all people concerned in trade to do siness as economically as possible. There are rich men, I admit, engaged in e coal trade, but there is an immense competition in it notwithstanding, and rge sums have been lost in it.

1412. Would it not be worth while, if you can get coal whipped for 4½*d.*, r all these parties to erect machines rather than pay the 7*d.*?
Perhaps it would not suit small dealers to erect machinery; but I believe at, generally speaking, all the large buyers of coal or sellers of coal will erect achinery. I cannot see the object of maintaining an office of this kind by ct of Parliament which can be maintained without the Act. I do think it is most improper thing to interfere in; I do not think it is a just thing to inter-re with the price of labour, and regulation of labour; and I never saw yet in my experience, which is not small, that it did not ultimately prove injurious both parties.

1413. During the 13 years that this office was in existence, you say that u kept up wages 1*d.* a ton, by your own showing; what other objection or il arose from it?
They had too many men on the list; they did not put any stop to the mber of men. If a man came out of gaol who has been convicted of ony, and who has been there 12 months, he has a right to put his name the register; and by that means they got a good many inefficient men upon e list, and of bad character also.

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1414. Supposing you had additional men upon the register, then one of your objections to the Act would be obviated?
The objection would be very great if there were too many of them; the objection would be very great if there was too large a number of men upon the register for the work to be performed.

1415. Do you think that by this you would reduce the number of coal-whippers altogether upon the river?
They would be reduced to the number which the work to be done required.

1416. That is, provided that the whole of the shipping of the river were whipped at this coal-office?
No, it would not do that altogether; but it would give the men greater wages, and they would have more employment.

1417. What will become of the other men who are engaged in that trade?
The answer to that is a very short one; work is in very great abundance, and the labour is very scarce throughout the kingdom.

1418. Lord *Stanley* of Alderley.] Is not this a description of unskilled labour?
Yes; filling coals and whipping them; it is not skilled labour certainly.

1419. *Chairman.*] The effect of this office will be to compel men to come to be skilled; that is the remedy?
I do not prescribe any remedy; but it is natural for people to go where work is to be got.

1420. Earl *Vane.*] Do you think that they would get lots of work in the north if they went there?
Yes; labour is very scarce there.

1421. Lord *Ravensworth.*] Supposing that by means of the office established under Act of Parliament an artificial rise in the rate of wages took place, would not such a result have a tendency to create new efforts for dispensing with that labour, and substituting other processes, such as unloading by machinery, to a greater extent than now?
Most undoubtedly.

1422. It has been stated that the coalowners derive a benefit from a diminution of this charge upon the unloading of the ships, and various questions have been asked in reference to that point; but it is not true that with regard to the price of any article to the consumer any diminution of charge in the production of that article, and in bringing that article to market, has a tendency to lower the price to the consumer?
Yes.

1423. Earl of *Carnarvon.*] There was an agreement signed by the coalowners in June 1856, was there not?
There was a resolution passed at the coal-trade meeting.

1424. There was an agreement, was there not, which was signed by the coalowners of Northumberland and Durham?
I cannot tell exactly what shape it was put in, but I know that there was a resolution passed and entered to supply the office with money.

1425. By that agreement it was specified that wages shall in no case be paid at a public-house, was it not?
Yes; we are all opposed to that system in the north.

1426. Would you say that the names who have subscribed this agreement may be fairly held to represent the coal-trade of the north?
Yes, quite.

1427. And that consequently the coalowners in the north are bound by this agreement?
Undoubtedly.

1428. Do you think, then, that this agreement has been in all cases fairly adhered to?
I do not reside here, I reside in the north, and I come here occasionally, but I am told by our agent that resides here it is so; the Board of Trade have not expressed

expressed any dissatisfaction, on the contrary, satisfaction of the manner which the agreement has been carried out.

1429. Your answers have all been given with reference to the north of England, and not to London?
I have given some answers with respect to London also.

1430. We have had in evidence, whether correctly or not, that wages are paid at public-houses, in some instances, in London, and that public-houses have increased in number; have you any reason to believe that either of those circumstances has occurred in the north?
I do not know; the shipowner when he buys coal from coalowners, we cannot bind him; but among large coalowners they have made it a condition in the charter-party, that the shipowner shall not employ gangs from public-houses, and bind him to employ men from this office only.

1431. And that has, to the best of your knowledge, been carried out?
So far as these names are concerned; there may be some small collieries that have not done so, but it will not be in near so many instances as it was under the old Act, for there were a great many coals delivered by gangs from public-houses under the old Act.

1432. I think you said just now that a gang can work, and did work, about 109 tons?
One hundred and nineteen tons of coal.

1433. In seven or eight hours?
In eight or nine hours, I think I stated.

1434. And that this would give an average of about 6*s.* a man?
More than that; I think 6*s.* 6*d.* each.

1435. Lord *Stanley* of Alderley.] At 6*d.* a ton?
Yes.

1436. Earl of *Carnarvon.*] Supposing a man would work three out of the seven days, that would give him an average of about 18*s.*?
Nineteen shillings and sixpence.

1437. Do you speak that with reference to special cases, or generally?
I am informed that that can be done by men in that time, and might be done every day; eight or nine hours is not a hard day's work.

1438. You believe that it is ordinarily done?
It is not ordinarily done, because they have not an opportunity of giving them so much to do; but if they deliver 119 tons, and they are paid a penny less, and the men are very anxious to do so; for the smaller quantity under that, they are paid 7*d.*

1439. Are you aware what the average of wages generally is weekly?
I believe that the weekly wages in the office amount to about 18*s.* 3*d.*, as taken out of the books.

1440. At present?
At present.

1441. Did I understand that the ordinary weekly wages of an able-bodied coalwhipper would be, in your opinion, about 17*s.* or 18*s.* a week?
That is what I am told is exactly the case by our agent, who is one of the managers at this office; I live in the north, and do not see so much of the coal-office here.

1442. Lord *Polwarth.*] You do not understand the operation of the coal-office?
Yes, I do.

1443. You state that all the coalowners and persons connected with the office, are most desirous that no transaction should pass through public-houses?
Yes.

1444. We have it in evidence that transactions of this sort do pass through public-houses?
Yes.

 1445. And

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1445. And in consequence of payments not being made when the work is done, the men are inconvenienced?
I was at the office this morning and asked that question. I understood that some complaint was made, and I found that they pay twice a week, but it may be paid oftener.

1446. Lord *Stanley* of Alderley.] How often do they pay wages in the north?
Once a fortnight.

1447. Lord *Polwarth*.] The labour in the north is the regular labour from week's end to week's end?
No; the greatest part is done by the piece, and I have been at some pains, and I know that persons employed as labourers under Lord Durham do not work more than nine days in a fortnight on the average.

1448. *Chairman*.] Is that because they cannot get work?
No; we want them to work more, and they do not.

1449. Is it not different here when the men are willing to work, and cannot get work?
They must be very inefficient men, or do not want to work, seeing the great demand for labour over the whole country, and do not seek it elsewhere.

1450. If a man resides with his family here, is not that an inducement for him to get work here?
Yes; but how many labourers come from Ireland, and bring their families also.

1451. Lord *Calthorpe*.] How many tons a day are worked by machinery?
I believe you can work as much as 300 tons a day by machinery.

1452. That would be performed in several days by manual labour; therefore the effect of the machinery must be to do away with the river labour?
Yes, if machinery is generally adopted, half of the coalwhippers would be able to do the work of the port. You would not require more than half if there was machinery.

1453. *Chairman*.] All your information about the office is derived from your agent?
Yes.

1454. He is employed there?
Yes.

1455. And from a return of the men?
Yes.

1456. You do not know how that return is made out?
No.

1457. Earl *Vane*.] You get this information from the factors?
Yes.

1458. Who are in constant communication with you?
Yes.

1459. *Chairman*.] Where does the chairman of the coal trade reside?
In Northumberland.

1460. Is he a coal-merchant?
No, a coalowner.

1461. Does he apply to the office for men to work?
I do not know; I suppose not.

1462. He does not reside now in London?
No; he is a coalowner, and not a factor or coal-merchant.

1463. He has nothing to do with discharging coals?
Yes, so far that he sells the coals on commission to persons; it is the merchant generally who applies.

1464. There are no coals passing through his hands except through the office?
That is impossible for me to tell.

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1465. Have Mr. Alcock and Mr. Warner, chairmen of the Shipowners' Association of Sunderland and Shields, any power over the ships?
They have the power over their own ships.

1466. But not over the others?
If Mr. Alcock comes to our office, there is a clause put into his charter-party that he must go to the office in London to employ gangs to discharge his vessel.

1467. That is in order that you may carry out the agreement?
Yes, it is done in the case of all the large coalowners; Mr. Alcock might, if he chose, break his faith with me, but the consequence would be that I would not hire his ships again.

1468. But he has no power except over ships of his own?
They have a Shipowners' Society; they may have rules to go by.

1469. But he cannot compel?
I have no connexion with the Shipowners' Society, but he cannot compel other shipowners how to conduct their business.

1470. Earl of *Carnarvon.*] As you said that the coalowners set their face against the publican gangs, I suppose cases have arisen from time to time in which they have considered that the agreement that they had entered into, had been infringed?
It may have been infringed through some of the shipowners; but I am quite certain that none of the principal coalowners who have signed this document, have done so. I am not aware of it; if I were made aware of it, I should certainly take the shipowner to task for it. Unless you pass an Act to suppress the public-houses altogether, which I should think impossible, you will not keep the men out of them. There is not one of our men paid at the public-house. On a pay Saturday they will not work on any account; but even the Monday following, after the pay, there is a third of them generally absent from the pits.

1471. You are speaking of men in the north?
Yes; you cannot keep them out of the public-houses.

The Witness was directed to withdraw.

Mr. ALFRED CHAPMAN called in, and examined as follows:

1472. Lord *Stanley* of Alderley.] WHAT is your employment?
I am pay-clerk in the Coalwhippers' Office.

Mr. A. Chapman.

1473. Be good enough to inform the Committee of the mode in which the wages earned by the gangs are paid in your office?
Every man is paid separately, at least his money is counted out separately; and if he is not in attendance, it is paid to his foreman.

1474. The basketman?
Yes.

1475. But every individual coalwhipper if he chooses may receive his wages at the office?
Yes.

1476. Is that generally the practice, or is your practice to pay it to the basketman, and to leave it to him to distribute it among the rest?
No; the money is absolutely counted out in nine separate lots; if it is 19 *s.* 11 ¾ *d.* for each man, he receives the 19 *s.* 11 ¾ *d.*; it is told in nine separate lots.

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1477. Is the practice for the basketman to take the money, and distribute it to the men, or for the whole of the gang to come and receive individually their portion of the wages?

Every man is ordered to attend to receive his money; he is expected to do so, and ordered to do so.

1478. But it occasionally happens that in his absence it is paid to the basketman?

Yes; the general practice is, that the majority of the men receive the money themselves.

1479. Lord *Colchester*.] Directly from you?

Directly from me.

1480. Lord *Stanley* of Alderley.] Is there any resolution or regulation fixed up in the office which informs the men that they may have the money if they choose to call at the office?

Yes; and I produce a notice of that sort, which I brought down with me this morning.

The Witness handed in the following document.

"NOTICE.

"13 May 1857.

"On and after this date every coalwhipper must attend at the pay-office to receive his own money. Any one absent when called, his money will be paid to the basketman, and the committee will not be responsible for the same.

"John Barber, Registrar."

1481. Be good enough to inform the Committee whether there was any question raised as to paying the men immediately when the job was done, or whether they should be paid weekly, or twice a week?

I do not know that there was any question at all about that; our committee thought that it would make the men more provident if they got the money once a week, instead of every day. Then there is the practice of checkering, which is an advance of 5 *s.* at a time. We thought it better for them to get, once a week, a good lump sum, on Friday.

1482. Why did you alter the practice, and pay twice a week?

Because the men said they would prefer it.

1483. So that, upon the representation of the men preferring being paid twice a week instead of once, you altered the practice?

Yes.

1484. Have you ever received any complaint from the men of the payment being only twice a week, and that they were not paid at the end of each particular job?

No.

1485. You have never received such complaint?

Not officially.

1486. *Chairman*.] But have you had any complaint from mere individuals?

Yes; when a man has been a little intoxicated, perhaps, he would want his money then, and he would have it then if he could get it.

1487. Lord *Stanley* of Alderley.] Do you know anything of the circumstances of the two cases which were mentioned to the Committee yesterday by a witness, one of the name of Tracey, and the other of a man named Varlow, two basketmen, who were stated to have paid their men at a public-house; do you know anything of the circumstances of those two cases?

I never heard of it till I was told of it last night; but how they did it I cannot say; they had no occasion to have done it; they received the money from me in nine different lots.

1488. *Chairman*.] The basketman received the money, did he not?

He did in that particular case; at least, I suppose he did.

1489. I mean, have you to pay the basketmen?

Yes; if a basketman comes, and I am satisfied that it is right, I pay him.

1490. Lord

1490. Lord *Ravensworth.*] If a basketman paid his men at a public-house, you would consider that he committed a breach of duty, would you not?
Decidedly to our office; if a man paid his money from a public-house, he would be liable to be instantly dismissed.

1491. Has that been the case at this office?
It has never been brought before them.

1492. Lord *Stanley* of Alderley.] Was it the practice in the old office to pay each man individually?
Each man was paid individually.

1493. And precisely the same course is pursued now at the present office that was pursued at the old one?
Yes, excepting that at the old office I paid as soon as the gang was cleared; at this office we pay twice a week.

1494. You say that you have had no complaint from the men, except occasionally from a drunken man, of this practice?
Yes.

1495. *Chairman.*] You have never had a complaint from any man except he was drunk?
I have heard of such a thing, but not as a general thing.

1496. The question put to you was, "You have never heard it, except from a drunken man"?
No man ever demanded it of me officially, unless it was that way.

1497. Do you think that there would be any inconvenience in paying the men at the end of the job more than in paying them as now, twice a week?
No.

1498. The reason which induced them to alter the practice was, that you thought it would tend more to the good habits of the men, by paying them in a lump sum, rather than by giving it to them by driblets?
Yes.

1499. From day to day?
Yes.

1500. Do you know anything with respect to the case of Tracey?
No. I believe he did get the money at the public-house, but I do not know it.

1501. Lord *Stanley* of Alderley.] Would you explain to the Committee what is the practice that you call checkering?
When a man gets a ship on Wednesday (at least, now it is only Saturday; it used to be Wednesdays and Saturdays) he is entitled to 5*s.* checkering, according to the work he has done, and even to the amount of 1 *l.* 5 *s.*, if he has got as many coals as that out of the ship.

1502. That is an advance to him out of the gross amount he earns between the Wednesday and the Saturday?
Yes.

1503. It is an advance which you make?
Yes, only on Saturday.

1504. *Chairman.*] So that if a man on the Monday is owed money, he cannot get it till Wednesday?
If he clears the ship on Monday, he cannot have it till Wednesday.

1505. If he is employed at a distance down the river, he must lose his day's work if he comes to get it on Wednesday, or else he must take it through the basketman?
Yes.

1506. Lord *Stanley* of Alderley.] The checkering is an advance which is made?
Yes.

Mr. A. Chapman.

17th July 1857.

1507. *Chairman.*] Only on Saturday?
Yes.

1508. Lord *Polwarth.*] It is a payment to account on one of the regular pay-days on a job unfinished?
Yes.

1509. *Chairman.*] But only on one day of the week, on Saturday?
Yes.

1510. Can he get that 5 *s.* on Wednesday too?
No.

1511. Only on Saturday?
Yes, that is the practice within the last two months, although checkering on Wednesday has been done away with.

1512. Lord *Stanley* of Alderley.] Why was that done away with?
Because the committee considered it a bad principle.

1513. Lord *Colchester.*] You put in a notice as to the regulation for the payment of wages that is dated May the 13th, 1857; was the previous system different to that?
I found that it was a growing system that men absented themselves from the pay-table when they were in the office, and did not come up to receive the money; I put that notice out in order to compel them to come, if possible.

1514. Not that you had changed your system, but that it was to notify to them more directly what the system was?
Yes.

1515. *Chairman.*] If a man is employed on another ship, he would have to leave his ship for the purpose of coming to receive his money?
Yes.

1516. If he has any employment, he would be obliged to leave his work for the purpose of attending at the office?
Yes, to receive his money.

1517. And therefore he authorises the basketman to receive his money for him?
Yes.

1518. You give it to the basketman without any authority from the man, provided the man is not present?
Yes.

1519. As you pay to these men separately, you can tell the Committee what is the average earning of the men?
The average earnings of the men actually employed is about 17 *s.* or 18 *s.* a week.

1520. What is the earnings of a man; the average weekly earnings?
We only know men that we employ.

1521. And those men earn what?
Those men actually employed would average about 17 *s.* or 18 *s.* a week.

1522. Those men are working night and day?
No; they would earn a good deal more than that if they worked night and day; they would earn it in one day and a night.

1523. Lord *Calthorpe.*] What do you believe to be the average of the men who are employed during a month?
The average of the men employed at the office, I should say, is about 17 *s.* or 18 *s.* a week.

1524. *Chairman.*] But out of the 700, what is it?
If I take the whole body, of course it will not be so much.

1525. But how much will it be?
That would reduce it very materially; it would be about 500, whereas the men registered at the office are nearly 800; 773, I believe, is our number now.

1526. What

1526. What is the average earnings, in the shape of wages, amongst the whole 773?
I should say between 12 *s.* and 13 *s.* a week.

1527. Lord *Stanley* of Alderley.] But are not these men employed at other places as well?
Yes; they are perhaps working at the docks at 2 *s.* 6 *d.* a day, or they may be working for Messrs. Green & Jones, or Mr. Cory.

1528. Lord *Polwarth.*] Do you think that the whole average would amount to 13 *s.* a week through the office?
Amongst the whole body 12 *s.* or 13 *s.* a week.

1529. *Chairman.*] Do you think that the evidence we have had of 11 *s.* or 12 *s.* a week is under-stated?
Yes, I am sure it is; I could prove it; we make it up every week, and it is checked by me.

1530. Lord *Calthorpe.*] Can you tell the Committee how many gangs were at work yesterday?
I cannot at the moment, but on Saturday there were about forty odd employed.

1531. Just about half the number?
About one-half.

1532. You have 82 gangs?
Yes, 82 now, I think.

1533. Earl of *Carnarvon.*] You have had some experience in the coal-trade, have you not?
Yes.

1534. Would you say from your knowledge, generally, that practically at this moment the wages of the men are paid in many public-houses?
Do you mean the *bonâ fide* men, or the outside men?

1535. The outside men?
Yes, there are a great many men paid at the public-houses, no doubt about it.

1536. Have public-houses increased in the river localities since the alteration of the Act last year?
Not numerically, decidedly not.

1537. *Chairman.*] You think that the outside men have increased?
Yes, since our office left the old spot they have increased.

1538. Lord *Stanley* of Alderley.] How many gangs had you formerly; how many had you on July the 11th?
We had 42 or 43; I can prove that 39 ships were at work, and one of those had two gangs, and two went to work after that.

1539. And you had forty besides those, had you?
I can account for 41 ships, and one of those had two gangs, a steam-boat.

1540. That would be 42 gangs?
Yes.

1541. *Chairman.*] At what time on Saturday did those others go to work?
About nine o'clock in the morning; but we strike our average at eight o'clock

1542. Lord *Colchester.*] You place the number upon a board in the office, do you not?
Yes; those in turn for work.

1543. Does the board show how many men are at work?
It shows how many men are idle.

1544. If anybody goes and looks at that board, he has the power of seeing how many gangs are idle?
Yes;

Mr. A. Chapman.

17th July 1857.

Yes; they sometimes go to work, and the new list is not put out when we are busy; but the general practice is, as soon as there is a list of 20, to put out another list of 20 or 40.

1545. Is it possible for any person going into the office and looking at your board, to see how many gangs are unemployed at that time?
It is; there were about 40 gangs idle all last week, more or less, from 30 to 40.

1546. Lord *Stanley* of Alderley.] You have stated that you had 40 to 42 gangs unloading; how many ships were unloaded on Saturday last?
There were seven ships cleared on Saturday.

1547. How many were there on Friday?
There were 15 cleared on Friday; these are the names of the ships that were at work.

1548. On the Saturday?
On the Saturday.

1549. These were the 40 ships that you cleared?
No, they are the 40 that were cleared on that day.

The Witness handed in the following document.

1. Broderick.
2. Francis Ann.
3. Hebe.
4. Diadem.
5. Ceres.
6. Autias.
7. Ravensworth.
8. Aden.
9. Leo.
10. Le Liberal.
11. Queen.
12. Ark.
13. Isabella.
14. Economy.
15. Victoria.
16. Dew Drop.
17. Mary Ann.
18. Jane.
19. Beatrix.
20 and 21. Countess of Durham (two gangs).
22. Falcon.
23. Neptune.
24. Vulcan.
25. Black Boy.
26. Reaper.
27. Veracity.
28. Jane and Ann.
29. Carleton.
30. Harrisons.
31. Sally.
32. Emsworth.
33. Jane.
34. Providence.
35. Perseverance.
36. Matthews and Ann.
37. Elizabeth.
38. London.
39. George Smith.
40. Hebe.

1550. Would it then be an incorrect statement to have made, which has been made to us upon evidence, that there were only 30 ships on Saturday last whipped by gangs taken from the coal-office?
Certainly, because here are 40; we struck the average at eight o'clock; I do not include the two ships that went to work after eight, and the time they must have gone to take the names of these ships, which must have been two in addition.

1551. *Chairman.*] Have you any means of knowing what other ships are worked by men out of the office?
We get orders sent from the factors, and they are taken away from us afterwards; that is the only way we can find it out.

1552. In those 40, were any of them factors?
All of them factors.

1553. Ships worked by agents, what are they?
I presume they are *bonâ fide* servants.

1554. Is there any means of ascertaining the whole number of ships unloading that day?
Only from the meter's returns; you might arrive at it in that way, what number of ships were cleared at the meter's office, and the names of them.

1555. The

1555. The meter's would not include your return?
Yes, they would those who had city meters.

1556. Lord *Calthorpe.*] Do the men know that they can get paid at the office, because some of them, I imagine, cannot read?
When a thing is put out, everybody rushes to read it; you would naturally suppose he would understand it.

1557. *Chairman.*] If they were paid immediately after the work was over, in the one case that would insure the man getting his money immediately?
It would; and I think it would be a better plan.

1558. Because then he would get the money direct, instead of its being in the hands of the basketman.
He would then have no possible excuse.

1559. Lord *Stanley* of Alderley.] You have had no representation or complaint made of money paid by basketmen at public-houses; if such were known to you, would it be your duty to visit with reprehension, and would you accuse the men for having done it?
Yes; undoubtedly. If I called a gang to be paid on a Saturday, and there was only one man in attendance, not even the basketman, as long as I am assured in my mind it is correct, I pay him. I pay him his own money, and I keep the rest till the foreman comes. I sometimes have to make as many as nine payments. If the basketman happened to be the last man ashore, I have to pay every man as he comes; but if the basketman is there, I judge him to be an efficient man, and I pay him.

1560. Lord *Polwarth.*] You never pay a wrong man?
No; I have never had a complaint to me, though I have been there nine years.

1561. Lord *Calthorpe.*] If a man did wrong, could you dismiss him; if he went to the public-house and received his money?
I believe the committee would suspend or dismiss a man if he went to the public-house to receive his money. In the particular case of these men, they had been checkered 10 *s.* a man. I will not be sure whether it was Tracey or Varlow; I believe they had both had 10 *s.*, but one stated that he had only 3 *s.* to receive from the public-house.

1562. Lord *Stanley* of Alderley.] So that it was only a small portion of his wages paid at the public-house, contrary to your wishes and knowledge?
Yes.

1563. Look over that list (*handing Mr. Foley's return to the Witness*); do you know of any of these cases which are mentioned in the list, of basketmen having paid the wages to the gangs at the public-house, or gangs having received the money there?
When they have cleared a ship on a bye-day, that might be to-day, they will go to a public-house; perhaps they have had 10 *s.* checkering of me; then they go to a public-house, and get the balance. He receives it from me in nine different lots; it is to a farthing divided absolutely.

1564. *Chairman.*] You have no control over what he might do outside.
No, I have no control over what he might do outside.

1565. The 10 *s.* or 15 *s.* checkering is only given on Saturday?
Yes.

1566. And not more than 5 *s.* to one man.
A man to-morrow if he has done 21 tons of coal out of a ship, would get 10 *s.* to-morrow night. Since the alteration, I never gave less than 10 *s.* a man.

1567. But you said 5 *s.* before.
If they have not broken bulk, because if they have, I have no hold upon them to go and pick the ship out.

John Trustham.

17th July 1857.

JOHN TRUSTHAM called in, sworn, and examined as follows:

1568. Lord *Stanley* of Alderley.] IN whose employment are you?
I am employed by Messrs. Green, Sons, & Jones, as foreman to superintend the work.

1569. Who is Mr. Green?
Coal-merchant.

1570. Is he connected with the gas company as well?
He is connected with the Chartered Gas Company as well.

1571. Who are the people whom you employ for whipping your coal?
We have up to last Michaelmas been working under hydraulic in Regent's Canal. Since that we have left the canal, and come outside, and we draw the coal now by way of Blackfriars Bridge. Since that we have had two, three, or four gangs of whippers.

1572. Do you get them from the office, or do you engage them yourselves?
No, my employers agreed with two basketmen to get two gangs of men at that time; the two foremen in the basin agreed to work for me at a price, and find men outside in the river, and they have done so up to this time. One man is outside now, if you wish to examine him.

1573. What do you pay them?
Sixpence a ton, according to my master's agreement with them.

1574. How often do you pay them?
As soon as ever a ship is out.

1575. Do you pay them at the public-house or at your office?
Well, we do; it is saying paid at a public-house; it is only to get change, or else I could do it at my own door. If you give a basketman a 10 *l.* note, he must get change somewhere. He cannot get it out of the stones in the street. Sometimes I pay them; sometimes I am there first, according to my business.

1576. What wages during the last week did the gangs earn at your wharf?
Take one week with another, I dare say 25 *s.* I hear there is a party who has been making a noise; if he had been at work last Friday to yesterday afternoon, he would have earned 30 *s.*

1577. Who is that?
Martin Phinn.

1578. How much did he earn?
Nine shillings and two-pence on Monday, and I checkered him 10 *s.* on Monday night; that brought him 15 *s.* in the two days.

1579. How many hours was he employed in earning that 9 *s.*?
I was not there the whole of the time, but I could guess he could not take a meter out before seven o'clock; it might be nine o'clock; then they were there till eight at night; 9 *s.* 2 *d.* I paid him, and I can bring the foreman in who paid him.

1580. Eleven hours?
You could not get a meter out before seven o'clock; then it would be eight before they got the gear up.

1581. Duke of *Cleveland.*] But the man was at work 11 hours, and for that time he got 9 *s.* 2 *d.*?
Yes.

1582. Lord *Stanley* of Alderley.] All your coal was unloaded by machinery at one time?
It was after the hydraulic started in Regent's Canal; but supposing there was not water to land her in, we had to get men to do 140 to 200 to lighten her enough to take her in.

1583. Were the men obtained from the old office to do that?
From the old office to lighten a ship; but we do not do it ourselves by those who

who contract with our governor to find men to do it. This foreman that I pay paid this Phinn and his gang, nine men; I pay him as soon as I can get to the public-house; sometimes I am there first, sometimes he is.

1584. *Chairman.*] What is the name of the public-house?
Devonshire Arms, Brand-street, Limehouse Fields.

1585. Lord *Stanley* of Alderley.] Would it not be as easy to pay at your office as at the public-house?
We have got no office near our work. This man agreed to do the coal at 6*d.* a ton, and find men; they prefer my paying him; sometimes I pay them on ship's deck, sometimes at home, sometimes at this public-house, to get them change.

1586. *Chairman.*] How many gangs have you employed?
Two, lately; we have been slack; but we employ an odd one if we want him.

1587. If you want another man, what do you do?
Perhaps there are two or three who can turn the basket, and we put him as basketman over the other men.

1588. He selects the men?
Yes.

1589. How does he find them?
He gets them in the best way he can. He goes to Ratcliffe Cross, and various places, and finds them.

1590. Lord *Stanley* of Alderley.] It has been stated that Thomas Phinn has been discharged by your master in consequence of having given evidence before this Committee; is that a fact?
He earned 9*s.* 2*d.* on Monday; and I expected he would be there on Tuesday; and instead of that, at six o'clock, the foreman must have been put to disadvantage through his keeping away, and he had to hire another man.

1591. Lord *Calthorpe.*] Was the man Phinn engaged in a gang?
Yes, nine months.

1592. Did he give no notice to you or to his employers that he was coming here?
None whatever.

1593. Was he summoned to come here?
I believe not.

1594. Duke of *Cleveland.*] Do you know whether he was or not?
I do not.

1595. Lord *Stanley* of Alderley.] Had this Phinn promised to come to work on the following day; and when he absented himself, did he state to you the reason why he had done so?
On Tuesday night he came. Before he came, I says to his foreman, "Phinn deceived you this morning; he has played a day for himself to-day, after earning 9*s.* 2*d.* on Monday." I said, "Let him play a day for me to-morrow;" so that he might come on Wednesday. But when I found out that he had been here, and made such an uproar, I said to him, "You cannot expect me to put you on before I hear how things are going on; you have been giving us such a fine character."

1596. *Chairman.*] It is because he made a row that he was dismissed?
It is not very pleasant, you know, to have falsehoods told of you.

1597. Lord *Stanley* of Alderley.] You dismissed him because you considered that he had given false evidence against you and his employer?
Yes.

1598. Lord *Polwarth.*] How did you know what evidence he gave?
I attend the coal market every Wednesday; and I was called in before our owner, and I was asked if I knew anything of Phinn being kept out of his

John Trustham.

17th July 1857.

money, and going on like this. I said I was not aware of it, and he must tell a great falsehood

1599. Supposing he only said that he was paid at the Devonshire Arms, what should you say then?
It was their own proposal.

1600. *Chairman.*] Supposing he only said that he was paid at the Devonshire Arms, do you think that a reason for discharging him?
No; but I heard that he said he was detained for his money.

1601. Who told you that?
A party that must have heard him.

1602. Viscount *Dungannon.*] But who told you that?
Let me see who was it. One of the under-men came down, and said he had been here.

1603. Was that under-man here himself?
No.

1604. How did he know what Phinn had stated if he was not here himself?
Some one passed the word to him on the Tuesday evening.

1605. Lord *Stanley* of Alderley.] What did you hear he had said against you?
That he was kept without his money till 10 o'clock, and then the shops were shut up, or something like that, and not time enough to get any beer or anything to eat; and that he was obliged to go off next day hungry, without anything to eat, something of that sort.

1606. Lord *Polwarth.*] Are the men not sometimes obliged to wait for their money?
I have been a man with a family myself, and I know men want money, and therefore I rally myself to give it them; sometimes I am before them, and sometimes after them.

1607. You say that you are anxious to give it to them as soon as you can?
Yes.

1608. When you meet at the Devonshire Arms, are you not expected to do something for the good-will of the house?
If they like they can have a pint of beer, or they can go without having anything.

1609. But when they go for change, is it not expected that they should drink; because you know when you go to change your ten pound note, you put them to the inconvenience of giving you cash for it?
When I tell them the night before, they prepare for me both silver and gold. As soon as I give in the note, I pass it to the foreman, and he pays it out.

1610. But it is expected that the men should expend a part of that silver at the public-house, is it not?
Not a farthing unless they like. I have dealt there thirty years; it is not like a 'longshore Paddy's house. It is ten minutes walk from Ratcliffe Cross.

1611. Earl of *Carnarvon.*] The public-house people would give you change for your good-will, and not for the good-will of the coalowner?
Yes.

1612. Lord *Calthorpe.*] Would it not be better that the men should get change before they go to the public-house?
It is not worth while for me to run about when we have a foreman to pay the men.

1613. *Chairman.*] Was it of your own free-will, or by your master's instructions, that you discharged Phinn?
I have not discharged him yet, and he cannot say he is discharged.

1614. But you do not give him employment?
How could I when he was summoned to come here?

1615. But

1615. But you do not know that he was summoned?
Could he go and earn 7*s.* yesterday; perhaps it was about 6*s.* yesterday; which would have taken him till four o'clock; could he go and clear a ship and have been here too.

1616. You have not discharged him, then?
I have not discharged him, but I do not know whether I shall or not. Of course if he is going to try and cripple me and my governor, I must get rid of a dangerous man like that; because if he says one thing, he will say another.

1617. Lord *Polwarth.*] Who keeps the Devonshire Arms?
Mr. John Meadows.

1618. How long have you known him?
Thirty years.

1619. Then he is an old friend of yours?
Yes.

1620. And you are very glad to bring custom to his house?
Yes; and he does not want a man to have a pint of beer unless he likes.

1621. But your bringing the eight men to the public-house is rather to the advantage of the house than otherwise, is it not?
Yes; if they like to have a pint of beer they can; in other houses they are obliged to pay something out of their earnings, but this is not like that.

1622. In other houses they do that?
Yes.

1623. That is not an uncommon practice along the river side?
No; down Shadwell, in a good many of the houses.

1624. *Chairman.*] Did you not pay them in the public-house during the operation of the Act?
We never had any *bonâ fide* men before the office brought them, but other gas companies had. I know myself that gas companies had men that they paid at public-houses.

1625. Lord *Polwarth.*] You have been at these public-houses?
Yes, of course, being among the steamers from Upper Pool to Cuckoo's Point, or Limehouse.

1626. Is the keeper of the Devonshire Arms any connection of yours?
No.

1627. He is not a relation?
Not a bit.

1628. Only an old friend?
Only an old friend. I should like you to have Phinn's foreman in; he is outside, and I should like it.

1629. *Chairman.*] You say that he has not been discharged, and that you are ready to employ him again?
Yes; without he has backbitten us too much; without he has told too much untruths. If he has done that, it would not do to give him a chance another time, would it?

The Witness was directed to withdraw.

Ordered, That this Committee be adjourned till Thursday next, One o'clock.

Die Jovis, 23° Julii 1857.

LORDS PRESENT:

Duke of Cleveland.	Lord Polwarth.
Earl of Shaftesbury.	Lord Calthorpe.
Earl of Carnarvon.	Lord Colchester.
Earl Vane.	Lord Ravensworth.
Earl of Durham.	Lord Wynford.
Viscount Sydney.	Lord Rossie.
Lord Dungannon.	Lord Stanley of Alderley.

THE LORD ROSSIE in the Chair.

JOHN FOLEY called in, and further examined as follows:

Evidence on the Coalwhippers Act.

John Foley.

23d July 1857.

1630. *Chairman.*] YOU were asked on a former occasion (Question 1268), "You went down purposely to take an account of the number of ships, on one or two occasions, did you not?" and you replied, "I went out on four days on the river with a waterman, and took the name of every ship in the Pool at work, and where she was at work from, and I have the list; July the 11th, that was last Saturday, there were at work on the river 71 ships; there were 30 at work from the new office, and 41 outside it, which did not work from the office." That is what you stated?

Yes.

1631. You have stated "that you had 40 to 42 gangs unloading; how many ships were unloaded on Saturday last? There were seven ships cleared on Saturday." "How many were there on Friday? There were 15 cleared on Friday; these are the names of the ships that were at work." "On the Saturday? On the Saturday." "These were the 40 ships that you cleared? No, they are the 40 that were cleared on that day." Your evidence was, that there were 30 ships at work on the Saturday, while we had afterwards evidence from the office stating that there were 40?

In my evidence I left room for that, that there might be a difference, inasmuch as I only took the Pool; I stated the Pool. On that day there was a ship worked at a place called Raynham Creek, which is a considerable distance down the river. There were also ships at Her Majesty's Victualling Yard in Deptford; I did not go there. There were also ships at Blackwall; I did not go there; and at the Tower, and at the Surrey Canal, where ships sometimes unload. I did not go there; I took the Pool as it stood; I simply took the Pool. There might have been 10 ships at work, and sometimes are at work in these places that I have mentioned. There is the Tower, where ships are sometimes worked; I did not go there; and then there is the Surrey Canal; ships sometimes work in there. On the day I mentioned I find there was a ship at work at a place called Raynham Creek, which is a considerable way down the river. We have had ships at work sometimes out of the office, at Gravesend, and in one case there was a ship worked at the Downs from our office; there was a case where the master of a vessel came to the office and took a gang of men, and brought them to the Downs; one of the men is here now.

John Foley.

23d July 1857.

1632. Your explanation is, that the 10 ships were worked out of the Pool?
Yes; I do not know whether it was so or not, but if he states so it might be correct; I dare say it is correct. I only took the Pool from Botany Bay tier to Prince's Stairs. It is the lowest tier in the river where ships work, and it is called Botany Bay.

The Witness is directed to withdraw.

WILLIAM SPOONER is called in, and examined as follows:

William Spooner.

1633. *Chairman.*] WHAT is your employment?
Coalwhipping.

1634. By whom are you employed?
By Green & Jones.

1635. What are they?
Coalfactors, I believe; they lighter. I do not know whether they are coalfactors; they lighter the coal.

1636. What do they employ you as?
In discharging the ships, the steam-boats.

1637. You know a man of the name of Phinn, do you not?
Yes, I know him well.

1638. Was he discharged or not?
No, he was not discharged; I should have discharged him though, and I ought to have discharged him long enough ago; he was a man that did not attend to his work on several occasions; that came to my knowledge. When I first employed him, Messrs. Green & Company did not know anything of him whatsoever. This said Simon Phinn on several occasions has stopped away from his work, and when he did that, I have had to walk about of a morning, and ships and steamers have had to stop till I could get a man to do his work when I have been busy.

1639. Then you did not discharge him?
No, I did not discharge him; but the men who were at work with him have often said to me, "If you don't discharge this man, I shall not work with him." They did not want to work with him, and nobody did. He is what they call a "Champion Russell;" that is the name he goes by; that is what he calls himself; and if anything is the matter, and if they have any words together, it is no sooner the words than the blow too. Although he has never hit any of them, still I have seen him pick up a shovel, and attempt to hit them with it. He is that sort of man.

1640. Lord *Dungannon.*] Is he still in the employment of this firm?
No, he is not.

1641. You say that he is not in their employment; is that so?
No, he is not in their employment just now, because we do not know how he has been going on since that, and the men have said that they will not work with him. He has said many times that if he could get them in the woods, it would be worse for them. They have refused to work with him, or to have anything to do with him.

1642. Then he is not likely to be again employed by these gentlemen?
No; in point of fact, I took the work to find the men to do it, and I found him; he was one of the men.

1643. He was discharged for general bad conduct, and not for anything that occurred in this place; he was not discharged in consequence of anything that occurred here?
No, none whatever.

1644. Lord *Colchester.*] Are you the person who hired him?
Yes.

1645. He was hired by you?
Yes, I hired him.

1646. Then

1646. Then what has Mr. Trustham to do with it?
I do not know. He is foreman, and I receive the money from him to pay he men.

1647. As basketman?
Yes.

1648. You are the basketman?
Yes.

1649. Then you hired the gang, did you?
Yes.

1650. And you hire whom you please?
Yes.

1651. And Mr. Trustham pays you the wages?
Yes.

1652. And you pay the men?
And I pay the men.

1653. Have you had any conversation with Mr. Trustham upon this matter?
Well, I cannot say I have not had any conversation with him, because you know I came up here the other day, and we were talking about it.

1654. You are Mr. Phinn's foreman, are you?
Yes.

1655. A noble Lord, a Member of the Committee, asked Mr. Trustham this question: "Had this Phinn promised to come to work on the following day; and when he absented himself, did he state to you the reason why he had done so?" Mr. Trustham answered this: "On the Tuesday night he came. Before he came, I says to his foreman, 'Phinn deceived you this morning; he has played a day for himself to-day, after earning 9*s.* 2*d.* on Monday.' I said, 'Let him play a day for me to-morrow;' so that he might come on Wednesday." Is that true?
Yes, that is quite true.

1656. "But when I found out that he had been here, and made such an uproar, I said to him, 'You cannot expect me to put you on before I hear how things are going on; you have been giving us such a fine character.'" Is that true?
Yes, I believe that is true. I have heard something to that effect, but not exactly those words altogether; something like that.

1657. Then the next question is, "It is because he made a row that he was dismissed?" The answer is, "It is not very pleasant, you know, to have falsehoods told of you." Do you agree with Mr. Trustham that Phinn was discharged because he had given false evidence against his employers, or do you not?
No, he was discharged for his misconduct on board the ship, and for not attending to his work; that is how it was; he was discharged for that.

1658. Then Mr. Trustham's evidence in that respect is not correct?
I do not know what his evidence is; I know what mine is.

1659. Mr. Trustham has stated this before the Committee: he was asked, "You dismissed him because you considered that he had given false evidence against you and his employers?" "Yes." That you say is not correct?
All I know of it is this: they said he was at work for me, and I consider so. You know I undertook to do the work and to find the men.

1660. Mr. Trustham here says that he dismissed him; has Mr. Trustham the power to dismiss him, or have you the power to dismiss him?
I do not know; I should think I had the power, because I hired the men to go to work; I undertook to do the work, and to find the men. Mr. Trustham has said, "You have had a day for yourself to-day; you will have a day for me to-morrow." That is what I understand of it.

William Spooner.

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1661. Lord *Stanley* of Alderley.] You are the person empowered to engage the men, and to dismiss them?
Yes.

1662. And not Mr. Trustham?
No.

1663. *Chairman.*] Then Mr. Trustham's evidence is false?
I do not know about his evidence being false; I do not know what he would do. If he likes to say he shall not do any more, I consider if I say he shall, he cannot alter it, as far as that goes.

1664. Lord *Dungannon.*] You mean to say that Phinn was dismissed as being an unfit person to continue in his situation, and that he was not dismissed on account of anything that he said in this room?
I do.

1665. Lord *Polwarth.*] If Mr. Trustham were to object to a man in your gang, you would probably be obliged to withdraw him, would you not?
No. I will tell you the way I might do; I do not want to have the men in hot water with Mr. Trustham, or anyone else, because you know there is many a foreman that can put many obstacles in your way with the master; therefore, with respect to giving a man a good character or a bad character, we do not like to make a noise about it.

1666. Lord *Dungannon.*] The person who engages the man has the power of dismissing him?
Yes.

1667. Lord *Calthorpe.*] The man Phinn has not been employed since he gave evidence in this room?
No, he has not.

1668. If he had not done that would he have been discharged?
Yes.

1669. For previous misconduct?
Yes.

1670. You state that?
Yes; he would have been discharged of course. I never knew when the man was coming to work, and when he was not; we could not depend upon him anyhow.

The Right Honourable W. E. GLADSTONE, a Member of The House of Commons, attending, is examined as follows:

Right Hon. W. E. Gladstone, M.P.

1671. *Chairman.*] YOU were well acquainted with the state of the coal-whippers before the passing of the Act which you introduced?
From about the year 1842; not I think previously to that.

1672. Will you be good enough to tell the Committee, was the state of the coalwhippers at that time very distressing?
Yes; there were most distressing statements often made to me on account of the official position which I held at the Board of Trade, and in fact, unless they had been statements of the most distressing character, they never could have attracted the attention of any man holding office, with reference to practical proposals such as those which were suggested to me.

1673. Then that was the reason why you introduced the Act?
Yes; I approached the subject in the first instance as I think every one in Parliament of necessity did, with the strongest possible prejudice against the proposal; but the facts stated were of so extraordinary and deplorable a character, that it was impossible to withhold attention from them. Then the question being whether legislative interference was required, I was at length induced to look at a remedy of an extraordinary character as the only one which I thought at all applicable to the case.

1674. You

1674. You are aware that there was another Act in operation at that time?
I am aware that Acts had been passed, but their provisions are not clear in my memory, and I should not be disposed to rely upon them as precedents for what was done at the time, because I recollect very well that we considered that what we were then doing as a great innovation.

1675. But whatever protection those Acts proposed to give, from the state of the coalwhippers you would not suppose that they were efficient to protect them from the evils which were then at work?
Of that there can be no doubt. The picture presented to me was that of a large class of men who, with their wives and families, in consequence of circumstances that had become too strong for them, were reduced to a state of the utmost demoralisation and wretchedness, both moral and physical, but who at the same time had not yet lost the recollection or the desire of better things, and who were very anxious to do something towards mending or improving their own condition.

1676. Do you consider that the operation of the Act during the time it was in existence answered your expectations?
Yes, it answered them fully, so far as the result of it was ever made known to me.

1677. I believe that that Act was re-introduced last Session; the Act having expired, a fresh Act was introduced?
The Act was re-introduced, I think, by Mr. Labouchere, who had been one of the keenest opponents of my Bill of 1843, but who, like many other sensible men, altered their judgments upon seeing the necessities of the case, and the results that the Act had produced. Mr. Labouchere renewed the Act in the year which is on record.

1678. Do you recollect the proceedings of the Committee of Inquiry in the House of Commons upon that subject?
Yes; I sat upon that Committee, and I recollect its proceedings.

1679. And the evidence was such as to induce the Committee to recommend the renewal of the Act, with some amendments?
I think there were, properly speaking, at that period no opponents, as far as I recollect, to the renewal. The only opposition which was made at that particular period, was objection to some few of the provisions of the Act, and an attempt to procure a modification of them; but the principle, I think, at that time was admitted: at the same time, I am far from saying that it was admitted as a permanent principle, because when I introduced the Bill in 1843, and when it was renewed, it was undoubtedly with the hope that the time would come when it might be dispensed with altogether.

1680. You state that the Act was re-introduced somewhere about the month of June 1856?
I remember the introduction of the Bill, and also the discussion upon it, which took place towards the end of the last Session of Parliament.

1681. Is this your impression of what took place; and I will particularly direct your attention to what is marked in italics (*Handing an extract from Mr. Lowe's Speech of June 19th, 1856, to the Witness*)?
My impression is, as to the proceedings of last year, that they are chiefly upon record, and I cannot add much, I think, to what is contained in the record. So far as I have looked back to the reports, they appear to me to contain a true account of what happened; I can easily describe the motive which induced me to take the part I did take.

1682. You were a party consenting to the withdrawal of the Bill; was your impression at that time in accordance with this: "Mr. Lowe said, 'The Bill was originally introduced by the right honourable gentleman the Member for the University of Oxford (Mr. Gladstone), and was intended to remedy the grievances of the coalwhippers of London, who were enslaved by the publicans, in whose houses they were hired. The Act had had the desired effect. Those men were no longer hired in public-houses, but from a central office, established for that purpose. It had, however, been represented by the coal-trade of the north,

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north, by the shipowners, that the Bill was no longer necessary, and the Government was willing to discharge the order for the second reading, upon an undertaking being entered into, which had been privately done, and which he hoped would be renewed by the representatives of the coal-trade and shipowners in that House, that they would establish an office for the engagement of coal-whippers, which they would support, and that they would not hire men from, nor pay them wages in any public-house, and that if these terms were broken in letter or in spirit, they (the coal and shipowners) would not offer opposition to the renewal of the Act in the next Session. Upon these terms, the Government being fully satisfied as to the honour and good intentions of those gentlemen, and being convinced that the undertaking would be fully carried out, thought that the matter was better in their hands than those of any public board, and, therefore, was quite willing that the order for the second reading of the Bill be discharged.'"—" Mr. Fenwick said, 'He begged to express his gratification at the course adopted by the right honourable gentleman. Had the Bill been persisted in, he would have been prepared to prove that greater evils had been caused by the Bill than any it had remedied. He was, however, quite willing to abide by the conditions of the right honourable gentleman, and if those conditions should be broken, he would not offer any opposition to the re-introduction of the Bill.'" Then I believe your speech follows?

I can speak to that, I think, without your Lordship's reading it. I have referred to that speech; it describes the opinions I then entertained, and I still entertain them. At the same time I might add this explanation: My view was, that the matter was essentially a temporary measure, but that it should be renewed from time to time until the necessity for it had ceased. I made inquiries last year into some of the circumstances of the case, in order to ascertain whether the period had arrived when the Bill might be dispensed with, and I think it was reported to me that the coalwhippers, instead of being, as they had previously been, almost exclusively dependent upon employment as coalwhippers, had been gradually acquiring the habit of carrying their labour to other markets, and that not less than 20 or 25 per cent. of their total earnings were gained by them at the docks, or elsewhere, in other capacities than as coalwhippers. That I thought an excellent symptom that we were working towards a state of freedom; still my own opinion was to the effect, that it was not safe to dispense with the Act at that particular time; but it appeared to me quite plain that both the principal power and the principal responsibility rested with the Government; that without the Government it would be hardly possible either to pass the Act or to make it work, and as the Government had come to the conclusion that the Act ought to be dispensed with, I thought that the best thing was for those who had been interested in the condition of the men to acquiesce in that determination, and to confine their efforts to obtaining a clear and positive and formal statement of the nature of the engagement which had been entered into by the trade, so that there might be no possible mistake about it, and so that in the event of its unhappily breaking down, the ground might be laid for the renewal of a just and legitimate measure.

1683. And that was the agreement—(*handing a copy of the Agreement of June 18th, 1856, to the Witness*)?

Yes.

1684. Did you understand by that, that there were to be any exceptions, or that that included the whole of the ships in the coal-trade from the north?

I do not see that the paper affords distinct and conclusive evidence upon that subject; but undoubtedly I proceeded, whether rightly or wrongly, entirely under the belief that the undertaking was on the part of the whole trade; not that the whole trade subscribed the paper, but that those who did, felt themselves authorised, and were believed by the Government to be authorised, to speak and act for the trade in the whole matter. In fact, I need not point out to the Committee, that it would have been most irrational to agree to the abandonment of the Act upon any other terms, because if a distinct portion of the trade had been avowedly withholding their assent from the agreement, there was at once the obvious material for the revival of the public-house system, and the total breaking down of all the good that had been effected.

1685. So that, seeing the signature to the agreement of the Chairman of the Sunderland

Sunderland and Shields Shipowners' Society, and of others, you believed that it included the whole of the north?

It was not in my power to analyse that list; I could only go upon the public description of it.

1686. You think that those and others who wish to see the coalwhippers protected, would be naturally led to believe that that included the whole of the north, if not even the Woolwich trade?

Undoubtedly; my clear understanding was, that it included the whole of the trade in sea-borne coals, from whatever quarter, to the port of London, and unless I had understood that, I should have thought myself insane to acquiesce (I might not have been able to procure the renewal) in the withdrawal of the Bill.

1687. Lord *Stanley* of Alderley.] Did you consider it an expression of opinion on the part of all the persons engaged in the trade, that they should abide by that agreement?

I considered it more than an expression of opinion, I thought it a positive engagement, and I certainly understood that it was an engagement on the part of persons who were authorised, whether formally or morally, to represent the entire trade in sea-borne coal to the port of London.

1688. *Chairman.*] Supposing it has been given in evidence that the present coal-office, having reduced the gangs from 130 to 82 as engaged at the office, thereby creating a large number of outside men, and then these naturally brought in competition with the office men, the manager of the office lowering the wages of the office men for the purpose of meeting public competition in the market; in your judgment is that a fair mode of acting?

I do not know that I am qualified to give an opinion upon the best modes of proceeding practically in this matter. Although I was entirely and almost exclusively responsible for the provisions of the original Act, as far as regards carrying them through Parliament, in giving effect to the Act I had very able assistance both from persons in the city of London, and particularly from my friend Mr. Laing, who was then at the Board of Trade, and likewise from Sir John Lefevre; I did not consider myself a practical authority; but the mode of proceeding described in your Lordship's question is certainly the exact opposite of that which we provided in the Act. In framing the Act of 1843 we were very desirous to prevent any limitation of number in the registered coalwhippers; and if I remember rightly, it was made compulsory to register all persons, and to form into gangs all persons who desired to be registered. To have erected an office which should have taken a discretion to cut down the number of the gangs, I think would have been objectionable in two ways; first, it would have given too much power to the agents in the office over the men; and, secondly, under given circumstances, it might have created a very close monopoly on the part of the men.

1689. Lord *Ravensworth.*] Was there any objection to that?

Not speaking as a practical man, I do not think there was any objection to the mode proposed in the Act of 1843, assuming the principle of the Act. Our object was, if possible, to do what was necessary for securing the entire discontinuance of the public-house system, but to do nothing more, and to leave the trade as free as possible beyond that. It was in order not to introduce unnecessary restrictions on the trade that we made it compulsory upon the office to register and form into gangs all the men that offered themselves.

1690. Whatever their condition?

I do not remember that there was any reference whatever to their condition.

1691. Lord *Stanley* of Alderley.] All men, weak and infirm, as well as strong and able-bodied; was there to be no discretion on the part of the office with reference to the condition of the persons to be admitted?

Oh, undoubtedly there was power to ascertain physical competence for the labour; that was all; but the object was not to limit the quantity of labour; we thought it a great object not to limit by Act the quantity of labour available for reciprocal competition as between the office and the trade.

1692. Will you be good enough to inform the Committee whether you think

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that the statement made on the part of the present office that they have reduced the number of gangs, not for the purpose of diminishing the number of men who shall have employment, but for the purpose of dismissing those who are infirm and incapable; securing the employment of those only who are capable of performing the work; would you think that a proper restriction on the part of the present office?

I should certainly have been disposed to admit that the power of excluding infirm and incapable men was a necessary adjunct to the constitution of any such office: but our object was, to make the office, as far as possible, a mere machine for the administration of the law, and not the arbiter of the wages of the men, but to let the wages of the men be regulated by the demand for labour in the market, and by the quantity of labour offering itself for employment.

1693. If the present office found a great number of infirm and incapable men mixed up with these gangs in the old office, would you think it a proper exercise of their functions to have discharged those men?

Speaking under the same reserve, undoubtedly that would seem to be so.

1694. *Chairman.*] When we have it in evidence that there were 1,300 and odd men when the old office was closed, and that that number was reduced to 700 odd, would you conclude that all those composing the difference between those two numbers, were infirm and incapable?

I would rather that the Committee should rely upon direct evidence than upon my estimate of probability.

1695. Lord *Polwarth.*] If it were stated that they thought 80 gangs sufficient, and the office reduced the number of gangs to that amount, would you think that a legitimate interpretation of the understanding that was come to?

The only way in which I can answer that question, would be to this extent, that the Act certainly took quite a different view of the office, and did not purport or tend to place in the manager of the office any discretion as to the number of gangs that was to be available for the labour to be performed; and likewise that I did certainly understand that the office which was to be established by voluntary agreement, was to discharge the same functions as had been discharged by the office existing under statute, and no others.

1696. I think we have it in evidence that they thought 80 gangs sufficient for the trade?

I am unaware of that.

1697. Duke of *Cleveland.*] That is upon the principle, perhaps, that the quantity of sea-borne coal has very much diminished within these few years, on account of the large quantity that has been brought in by rail?

I think the intention of the Act was, that in the event of a diminution of the trade, the number of gangs should be diminished, not by the will of the office, but by the natural operation of the diminution of the trade in reducing wages, which would have the effect of inducing a considerable number of the men registered at the office to seek employment elsewhere.

1698. Lord *Ravensworth.*] You stated that when the Act was introduced by itself, you only introduced it as a provisional Act against an acknowledged evil, but an Act which in the course of time you thought ought to cease and determine. I should like to know if such regulations as these on a subsidiary agreement are entered into, and are found objectionable to the former Act; at what period and under what circumstances should you contemplate the time that the first Act should ever cease?

It may be my fault, but I do not quite see the connexion between the two subjects; namely, the introduction of these regulations and the cessation of the Act. I should have thought that the power of the office ought not to be augmented and made more stringent, but ought, on the contrary, to be more and more reduced. That is what I should have taken as the mark of the approach to the period when the Act might be fairly dispensed with. But if it is asked what I looked upon as the sign of the approach to the period, I should refer to the growth of the proportion of labour carried by the coalwhippers to other markets than that of the coal-trade. As that grew, it appeared to be a sign

a sign that the men were acquiring stable footing and independence as labourers, and when they should have done that, it would appear needless and even absurd to continue the Act.

1699. But supposing the Act to be continued, could you ever have looked forward with confidence to the day when there should have been no engagements with public-houses?

Perhaps not. I might not be able to form a positive opinion upon the question, whether any engagement would or would not be formed at the public-houses; but if a class of labourers have attained to the ordinary degree of independence possessed by other classes of labourers, then I should not have been careful to look into the question whether their engagement was, in some individual case, formed at a public-house, because I should say that it would be better that the Legislature should allow that evil to exist, unless it grew to a very great height, than encounter the evils of interference.

1700. I think the Act was in operation for about 12 years?

I think so.

1701. Is not that a considerable period to admit of the men having acquired that better condition and status, so that they might be able to take better care of themselves?

Yes, I should think great progress had been made during that period.

1702. Then ought we to be astonished to find at the end of that period, when a somewhat greater liberty is given to the hiring and engaging of labour, that some of the former evils have occurred in the shape of engagements at public-houses?

No; I should say that that is a question of degree; the mere fact that it was shown that a particular gang of coalwhippers had been engaged at a particular public-house, would not seem to me to show sufficient occasion for a renewal of the Act.

1703. And when it appears that those engagements have been only made in a very few instances, and comparatively small, with parties from the north, it is hardly just to attribute to the coalowners of the north a complete breach of the terms upon which they entered in this agreement?

It is not understood, I hope, that I am responsible for ascribing a breach of faith to anybody.

1704. No?

It is difficult to answer the question; the term, "comparatively small" is open to various constructions; if it were my duty to consider the question of the renewal of the Act, I should not merely inquire whether it could be shown that in some particular instance or instances contracts had been taken at public-houses, but I should look first to the amount to which that practice had reference; and, secondly, to its tendency to grow and spread.

1705. Lord *Colchester.*] If you found that the proportion was about one in four, and that the gangs came in such a state of intoxication that they were not in a fit condition to work, what should you say then?

If the question is merely to test my opinion, I should consider one in four a very formidable state of facts, unless it was shown at the same time that it was a proportion which was rapidly diminishing and disappearing.

1706. *Chairman.*] A question was put to the manager of the office: "You think that the present system is very injurious, as far as regards the public-houses? No question of it; I have no doubt that things will soon get as bad as under the old system; I mean as far as the public-houses are at work." That being the evidence of the manager, do you not think it strong evidence in favour of reverting to the old state of things?

That perhaps is rather the opinion of a Member of Parliament to be given as a Member of Parliament, than as evidence; but I am prepared to answer the question; if it is the wish of the Committee I should have no hesitation in answering it. I should think that if that evidence could be substantiated, that it did show a case for the revival of the Act, but I am not able to say how far it can be substantiated.

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1707. If the office confine their gangs to a limited number of men, say 82 gangs, while there are 1,100 coalwhippers employed in the trade; is not that in direct opposition to the principle of the former Act?

It is, certainly, if I am to understand that the numbers are confined by the discretion of the office.

1708. Lord *Stanley* of Alderley.] You consider the Act which expired last year as essentially vicious in principle, and that it was nothing but the extraordinary circumstance of the distressed condition of the men that induced you to reintroduce that Act to remedy those evils, and that, in introducing it, you considered it of a temporary, and not of a permanent nature?

I considered it faulty in principle with regard to the laws that ought to govern the demand and supply of labour; but I considered that nothing as compared with the former evil that prevailed, and the desirableness of checking it. At the same time it was my hope and expectation that the necessity would prove to be a temporary necessity, and that the Act would bring about a state of circumstances that would enable the Legislature to dispense with it.

1709. Would those circumstances justify the Government to-day in not renewing the Act of last year, 1856, and did you give your assent to the withdrawal of the Act upon that occasion?

I did so upon the circumstances of the case, as they stood before me at the moment, when I had to decide; and I considered it to be one of the circumstances, and one of the utmost importance, that the Government had given its consent to the withdrawal of the Act. If I had been called upon to have been a party to the decision of the Government, I am not very well able to judge—but I certainly lean to think that I should have decided the other way.

1710. The circumstances of the increased machinery and the diminution of labour in coalwhipping for persons in the river had become such that you thought it might fairly be considered a time when an alteration might take place?

I thought we were moving in that direction, but I cannot say more.

1711. Is it your opinion that it would be desirable to revert to the original Act, which ceased to exist in 1856?

I am not sufficiently cognisant of the facts of the case to be able to give an answer.

1712. Earl of *Carnarvon*.] Is it not possible, while the necessity for reverting to the old Act may not exist under altered circumstances, still that it may be advisable to throw a certain amount of protection around the men, who stand in a very embarrassing position?

If there be any form in which protection can be afforded to them, such as shall be available to them and less restrictive upon trade than the late Act, I can easily conceive that that is a question well deserving consideration, but I am not aware of any such form at present.

1713. Lord *Polwarth*.] If we are of opinion that the late evils have a tendency to grow again, would it not be desirable to throw some shield or protection over the men?

My own object was to give them a minimum of protection, and we came to the conclusion that that minimum, which would at that time be effectual, was the simply changing the locus of the hiring, and leaving the trade in all respects as free as we could.

1714. Was that the object of the late Act?

Yes, to leave the hiring free in all respects, except that it should take place within a certain public office, managed by people having the responsibilities of a public office, conformable to the conditions of the Act.

1715. The late Act produced a monopoly to keep up the rate of wages, did it not?

I do not doubt that it may have had some tendency that way. Our intention was to qualify that tendency, and restrain it as much as possible. I do not know whether any other form of protection can now be given; I do not say that it cannot.

1716. Earl of *Carnarvon.*] The fact of the engagements being contracted in the public-house was the real vice of the old system?
No doubt.

1717. Lord *Colchester.*] Do you think that that might be obviated by only allowing men to be hired in licensed houses in addition to the office?
I should be reluctant to give an opinion off-hand upon that proposal, without having more opportunity of informing myself upon it.

1718. You are aware that under the Merchant Shipping Act, all seamen employed on board ship must be hired, either by the owner of the vessel, or through his own servant, at the public office, or of any other persons licensed under the Act of Parliament; do you suppose that a similar form of hiring might not be adopted here?
I am far from saying that it might not; it would be presumptuous in me to give an opinion upon that subject without further consideration.

1719. Lord *Dungannon.*] You consider this Act an extraordinary measure, calculated to remedy a very great and extraordinary evil; are you of opinion that the time has arrived when it would be safe not to renew the Act as far as regards the interest of the coalwhippers; they being placed in that position in which, in common justice, we should wish to see them placed?
The description of the motives which suggested the Act is perfectly correct, but the answer to the closing question would imply more minute knowledge of the state of facts than I possess.

1720. You have not made many recent inquiries, perhaps; will you state whether these reports were transmitted to you at the time that you were in office?
I have from time to time been in communication with coalwhippers themselves, and with persons interested in their condition; but I have not so comprehensive and exact a knowledge of the present state of facts as would alone enable me to give a judgment upon a very grave question.

1721. What is your impression as to whether it would be safe or not to renew the Act?
My impression last year, so far as I had one, undoubtedly was that it was hazardous not to renew the Act, but I could not venture to give a more positive opinion for want of sufficient knowledge.

The Witness withdrew.

Ordered, That this Committee be adjourned.

APPENDIX.

Appendix A.

NUMBER of Ships Whipped in the Pool from the 1st August 1856 to 30th June 1857 (as nearly as can be ascertained).

Delivered by the Coal Whippers' Office	2,810
„ „ Gas Companies	406
„ „ Private Servants	526
„ „ *Publicans	128
„ „ *Agents	157
„ Otherwise	342
TOTAL	4,369

* From 1st January 1857. (No record kept previously to that date.)

2,296 gangs employed from the new office.

J. FORSTER,
Chairman of the Coalwhippers' Office.

NUMBER of GANGS employed, and Average WAGES of the MEN therein, from the Coalwhippers' Office.

Week Ending	Gangs.	Average Wages per Man.	Week Ending	Gangs.	Average Wages per Man.
1856:		*s.* *d.*	1857:		*s.* *d.*
October - 25	60	17 5½	February 6	65	19 –
			„ 13	71	18 –
November 1	72	18 11¼	„ 20	57	18 5
„ 7	62	20 4¾	„ 27	88	20 3¼
„ 14	82	18 10½	March 6	67	17 4¼
„ 21	76	19 4½	„ 13	75	18 9¾
„ 28	56	20 4¾	„ 20	81	17 1¾
			„ 27	27	20 1
December 5	79	19 1¼	April - 3	36	17 1¼
„ 12	69	20 6	„ 10	28	17 8
„ 19	40	18 2¾	„ 17	37	17 6½
„ 26	70	17 9	„ 24	86	16 4
			May - 1	88	20 1¾
			„ 8	67	17 11
1857:			„ 15	50	17 1
			„ 22	44	17 8¼
January 2	86	18 3	„ 29	55	16 –½
„ 9	61	19 3½	June - 5	56	17 2¼
„ 16	50	19 7¼	„ 12	55	17 10½
„ 23	53	17 5½	„ 19	66	15 2¾
„ 30	79	19 11	„ 26	59	17 9¼

Average wages per week per man in 36 weeks - - - - 18 *s.* 4 *d.*

J. FORSTER,
Chairman of the Coalwhippers' Office.

Appendix A.

Number of Men employed from the New Voluntary Office, at its Establishment, 1,107

Number of Men employed at the present time - - - - - - 773

Number of Ships, and their Tonnage (of Coals) Whipped from the New Office since its establishment - - - Ships, 2,810 - - - - - Tons, 871,454

14 July 1857.

J. FORSTER,
Chairman of the Coalwhippers' Office.

RETURN of the Sums Received in each Month for WHIPPING COALS by the New Office, from 1st August 1856 to 30th June 1857.

		£.	s.	d.
1856	August	2,554	7	1
„	September	2,520	4	7
„	October	2,224	2	8
„	November	2,548	12	4
„	December	2,696	3	11
1857	January	2,358	2	9
„	February	2,467	9	4
„	March	2,065	6	5
„	April	1,978	12	11
„	May	1,993	15	10
„	June	1,904	18	11

J. FORSTER,
Chairman of the Coalwhippers' Office.

SEABORNE Importation of COAL, CULM and CINDERS.

		Ships.	Tons.
August	1856	805	221,599
September	„	885	247,290
October	„	1,044	298,929
November	„	1,022	304,612
December	„	921	280,880
January	1857	881	266,870
February	„	857	265,226
March	„	756	230,566
April	„	962	281,185
May	„	780	230,269
June	„	808	238,677
		9,721	2,866,103

J. FORSTER.

NUMBER of VOYAGES and TONS of COALS Discharged by Screw Colliers, from the 1st August 1855 to 1st July 1857.

1st August 1855 to 1st July 1856;	228 Voyages	121,388 Tons.
1st August 1856 to 1st July 1857;	662 Voyages	375,111 „
TOTAL	890 Voyages	496,499 „

J. FORSTER,
Chairman of the Coalwhippers' Office.

Appendix B.

My Lord, Coal Exchange, March 3, 1857.

The committee managing the Coalwhippers' Office having read in the newspapers a report of representations made to your Lordship by a deputation on the 18th February, beg leave to submit a statement of the measures that have been taken in performance of the promise made to the Board of Trade in June of last year, that an office for the hire of coalwhippers should be set up by the coal trade, and should have the same preference on the hire of labour as they were then compelled to give to the office established under the Act of Parliament about to expire.

As soon as it was ascertained that Government accepted the pledge thus given, a provisional committee, consisting of Mr. William Cory, Mr. Peter Davey, Mr. John Forster, Mr. William Milnes, Mr. William Page, Mr. George Smith, and Mr. Nicholas Wood, jun., was formed, who furnished from their own resources the fund required for their first operations, and proceeded to find suitable premises. Endeavours were made to obtain those occupied by the late Coalwhippers' Office, but failed. Other premises, at 27, Lower Shadwell, were taken, and on them a waiting room for the men and other offices have been erected, at an expense of about 650 *l.* The accommodation they afford is undoubtedly very superior to that the men had been accustomed to. Mr. Barber, the registrar, Mr. Chapman, the pay clerk, and Mr. Coggan (since dead), the shipping clerk, all of the late office, were appointed to similar situations in the new. Correspondence was carried on with the Coal Trade Committee of Northumberland and Durham, with the Shipowners' Society of Sunderland and South Shields, and with other parties to the promise given to the Board of Trade with a view to its performance.

In October the present committee was definitively constituted, Mr. Peter Davey and Mr. George Smith having withdrawn for reasons of personal convenience unconnected with the management of the office, and Mr. Cory having left it for reasons that will presently be noticed; these gentlemen were replaced by others, and the following are the names of those who have now through their chairman the honour to address your Lordship:

Mr. *Wm. Dowell*, representing the Sunderland Shipowners' Society.
Mr. *G. H. Warn*, representing the South Shields Shipowners' Society.
Mr. *Matthew Hutton Clayton*,
Mr. *John Forster*,
Mr. *William Milnes*,
Mr. *William Page*,
Mr. *Nicholas Wood*, Junior,
} Appointed by the Coal Trade Committee of Northumberland and Durham.

It was determined, and appeared indeed necessary, to make at first as few changes as possible in the arrangements of the late office, but to allow the whippers who were working under it to work under the new. It was, however, from the first resolved, that no basketman (the head or foreman of a gang) should be compelled to take into it men whom he did not consider proper for the work, and that no incomplete gangs should be kept up. This last reform was effected not by discharging any men because their gang was not full, but by allowing and encouraging their admission into other gangs also incomplete. Without discharging men for that purpose, the fictitious number of 123 gangs, which were on the books of the late office, has thus been reduced to 88, which, however, are complete. We may here say that only twice has this number of gangs been all at work together; but were more required than now exist, they could be improvised from the labourers seeking employment in the docks and on the river. How many men could have been mustered from the 123 gangs of the late office it is impossible to say; certainly not the number they should have contained, and the number of men really fit for work would again have been less. Since the present office began only eight men have been discharged, all for some fault or specific reason, stated to them. Others have left because they got employment elsewhere, or have been unable to induce their fellow-workmen to admit or keep them in their gangs.

As Mr. Cory's secession was noticed in the interview with your Lordship of the 18th February as a matter for serious complaint, we now wish to explain on what grounds it occurred. Mr. Cory, one of the largest London coal-merchants, and nearly connected with Mr. Taylor, a leading coal-factor, whose name was therefore mentioned with his by the complainants, maintained under the late Act of Parliament a large number, about 80, of coalwhippers, for discharging the coals bought and imported by him, without the agency then or since of public-houses. These men earned in his service very regularly wages of about 28 *s.* a week, the earnings of those in the late office averaging about 13 *s.* 6 *d.* On finding the provisional committee in favour of the general principles of management just explained, we believe Mr. Cory thought that if he broke up the establishment, and threw the men composing it into the general mass of those taken over by us from the late office, their wages would fall at first more than half, whilst the improvement the provisional committee hoped to effect in the earnings of the men would be gradual; indeed, in his opinion no

Appendix B.

no improvement could ever occur, and the immediate effect on his men would be that stated. We found he had expected us to conduct our office as his own was conducted, as a private office to register no more men than could be kept constantly at work, and earning good wages. No doubt such a plan would have been in accordance with the usual and proper relations of master and servant; but to adopt it, there would have required us to discharge at once a large number of men, would have imposed on us the task of selecting those we kept, a task very difficult in itself, and at the time perhaps hazardous to the public peace, and even might have been thought inconsistent with the terms of the engagement given to the Board of Trade. Under these circumstances, we were compelled to forego the advantages of Mr. Cory's co-operation.

We need not trouble your Lordship with details as to other matters in which our mode of managing the office differs from that of the Commissioners under the late Act; we hope to effect further improvements, such as shall be suggested by the working of the business, and as can be effected without abrupt interference with the men's habits. Much coal now comes to London in screw steam-vessels, which require greater despatch in their discharge than sailing-vessels do, and to work which gangs of picked men are necessary. The late office could neither pick out men, nor allow the best men to separate themselves from the mass for this purpose; the business of whipping in such cases was thus in the hands of private employers. We induced our men to form gangs fit for this work, and have succeeded in obtaining much of it. We hope to get more when the prejudice existing against men from the "office" formed by the companies concerned in these vessels during the operation of the Act of Parliament, shall be seen not justly to apply to ours, and shall die away. We have reduced the charge in the case of steam-colliers from 8 *d.* to 6 *d.* a ton; a reduction recognized by the men themselves as necessary to obtain for them a share of the work, while even at the reduced rate they earn very excellent wages. In the case of sailing-vessels, the great majority of those discharged, we made a reduction of the rate from 8 *d.* to 6 *d.* a ton as early as the 1st October, with the cheerful assent of the men. The reductions stated do not represent the whole saving to the public. Not only do the charges we make affect those made in the docks and at the wharves, but the late office had, till very shortly before the discussion respecting a renewal of the Act of Parliament, charged 9 *d.* a ton; and it was notorious that had the Act been granted again, that rate, or one still higher, would have been charged, to indemnify the men for the large reduction for office expenses that was about to be made.

We do not believe that the men in our office are dissatisfied with our management of it. It is, as your Lordship knows, but too easy and common for agitators to get up a movement against employers; in this instance many of those most prominent at meetings, and in deputations, are not coalwhippers. Without wishing to dwell on this point, we think it right to record our conviction that the present differs in no respect from the usual attempts on behalf of combinations for raising wages, and making men independent as to work, of character, and of exertions to deserve it. An Act of Parliament, such as was that which expired last year, which carried out in all respects the object of a trades' union; which secured to a body of men a monopoly of whatever work there might be in the market; which restricted, to the point of virtually prohibiting, all discussion as to terms, and provided that all men, good or bad, should have the same shares and terms of employment, was not likely to be abandoned without such a struggle to recover it as that we are noticing. Its leaders know that, however at variance these results were with the intentions of the Legislature, and of the distinguished statesman who first obtained the Act of Parliament, they are inseparable from legislation on the subject, and that it would be impossible to pass any law re-establishing the office which they would not turn to the same purposes.

In replying to the allegations of the deputation, so far as known to us by the published Report, we beg leave to refer to the annexed Copies of a Memorial (No. 1) sent in to us, and of our reply to it (No. 2), containing all that the dissatisfied party have allowed to be recorded in the way of discussion with ourselves, to whom it was to be supposed their case would first be stated.

The first point is the interference of public-houses, and their alleged control over the coalwhippers, as before the Act of Parliament was passed to check that evil. The facts are these. Very shortly after the establishment of our office, we found, with great regret, that some publicans had purchased the "gear," or tackle, necessary for coalwhipping, and induced some men to work for them. To check this, the Coal Trade Committee of Northumberland and Durham, at our instance, procured the insertion, very generally, of a clause in charterparties, or agreements for charter, binding ships to discharge as desired by the factor or consignee in London; and the London coal-factors have done their best to carry it out. These measures have undoubtedly been successful as respects the great mass of seaborne coal from the collieries of Durham and Northumberland. But the coal trade generally, and ourselves, regret as much as any one can do, the fact that some men are "working from public-houses." We are glad to say, however, that the extent of the evil has been greatly exaggerated. We shall proceed to show that it is certainly not true, as has been asserted, that "a great proportion of colliers in the port are discharged by public-houses, and that their number is daily increasing."

Since the 1st January, we have kept an account of the number of colliers passing through the "Meters' Office" (there can be very few, if any, discharged by whippers that do not pass through it) which have not had gangs of men from us. We find them to have been from the date named to the 28th February, both inclusive, 318 ships. Of this number, 236 were

were discharged by Mr. Cory and other coal-merchants and employers, not publicans, who had establishments during the operation of the late Act of Parliament.

There remain 82 ships to account for; as to 47 of them we cannot get information; the remainder, 35, we have been told have been discharged through public-houses. These numbers, 35 ships believed to have been so discharged, and 47 as to which we are in ignorance, stand against 510, taken in the same time by our office. It is our belief that the work done through public-houses is not increasing. In any case the facts we have just given contrast forcibly with the statements made by the deputation. We should explain that we get our information as to the number of ships discharged through public-houses, by encouraging the basketmen in our office to bring us all the cases that they can hear of, rewarding them for doing so; and from what has occasionally happened when we have proceeded to verify this information, or act upon it in the way of remonstrance with shipowners or others, we have found that the statements thus obtained err in exceeding rather than in falling short of the truth.

It has also been alleged that the condition of the men in our employment has become worse than it was under the Act of Parliament. According to the published Report, to which we have already referred, your Lordship was told that they earn only 9 *s.* a week when at work. We annex a statement (No. 3) showing what the weeky earnings of the whole number who have been at work have been since the establishment of our office. It will be seen that our men while at work earn considerably more than double the sum stated. The number of ships discharged by our office since its establishment has been 1,882. This number shows that the work done in this way has decreased as that done by the late office had decreased. This is owing to the increased discharge of coals by machinery in docks and at wharves. The annexed estimate (No. 4), in the general correctness of which we have confidence, shows how small, comparatively, a portion of the whole quantity of seaborne coal is now discharged by whippers. What remains may be expected to diminish as new docks are coming into operation: the Victoria Docks alone are preparing to receive a large number of colliers.

The funds required for the office, and now employed in its business, are 1,500 *l.*, which have been furnished by the coal trade committee of Newcastle-upon-Tyne and by ourselves. The revenue of the office is at the rate of 1,000 *l.* a year, its expenses 800 *l.*; the difference is available to repay the money sunk in plant, and to assist a benefit fund for the men, when they shall establish one, as we hope they soon will succeed in doing. This revenue does not wholly arise from the farthing in the shilling deducted from the men's wages (the late office had deducted the same amount, and was about to raise the charge to a halfpenny in the shilling), which would be far from paying the office expences, but about one-third of it is from the profit on "gear" hired to ships, which was also a source of revenue to the late office.

We have thus furnished your Lordship with an account of the establishment of our office, which will be found, we hope, on comparison with the explanation of their intentions given in June last by the coal trade, to perform very punctually the promise then made. We have shown that a considerable saving to the public in the cost of delivering coal has been effected; we have shown what the wages earned by our men are, and we have given information as to the extent to which men are employed by public-houses. We have further only to assure your Lordship that we are most anxious to continue to the men the means of avoiding the intervention of public-houses, with its concomitant evils; and while we were without power to prevent the attempt, we trust that we shall be able to show that it can be frustrated by the means at our command, but that we do not profess to be able to find employment for a greater number than are sufficient for the work, nor for those who are incompetent to discharge it to the satisfaction of their employers.

I am, &c.

Lord Stanley of Alderley, &c. &c.

(signed) J. Forster,
Chairman of the Committee.

No. 1.

To the Honourable Committee of Management of the New Coalwhippers' Office.

The humble Petition of the undersigned Coalwhippers of the Port of London, at present working from the above place,

Showeth,

That your Petitioners are at the present moment in a state of the deepest privation and distress altogether unparalleled with that which has existed at any former period of their history, arising in their opinion from the fact, that a large portion of their work has already fallen into the hands of publicans, who are daily increasing and extending their power, and will, there is too much reason to fear, unless a decided check is put upon their movements, succeed in restoring the old state of things, which the Legislature, in its wisdom, passed an Act from time to time to abolish; which Act, owing to representations from your Honourable Committee that you possessed sufficient power to effectively deal with the evil, was allowed to be withdrawn,—the result of which, as above described, is a state of distress and poverty never before by them felt.

Appendix B.

Your Petitioners would, therefore, most earnestly entreat of your Honourable Committee to take their case, which is one that admits of no delay, into your immediate consideration, with the view of ascertaining whether the power which you possess is of a sufficiently stringent character to deal with the evil, and, if so, that you will at once see that it is so applied to accomplish that object. That should it not be so, that your Honourable Board will be pleased to devise the best means in your power for their protection until Parliament meets, and that you will then, according to agreement, join with them in laying their case before the Legislature, and procure the renewal of the Act in such a form as will save them from the deplorable evils with which they are threatened.

And your Petitioners, as in duty bound, will ever pray.

Signed on behalf of the Coalwhippers,

GEORGE SEALE, Secretary.

COPY of RESOLUTIONS that were submitted to the Meeting of Coalwhippers at St. Mary's School-rooms, on Tuesday evening, 30th September 1856.

1st Resolution; proposed by John Foley, and seconded by George Seale,—

THAT in the year 1843, an Act of Parliament was passed to release the Coalwhippers of the Port of London from the public-house agency system.

That the term for which the Act was last renewed expired during the last Session of Parliament, and was not again renewed, in consequence of a pledge being given to the Board of Trade by 350 of the coalowners, factors, and masters of vessels to carry out its provisions under private arrangement.

That, notwithstanding that pledge given by and in the name of the coalowners, factors, and masters of the Port of London, the old system of public-house truck agency has been again revived, and now about one-third of the whole number are employed by publicans and other tradesmen, and the remaining two-thirds through the office established by the owner and factors.

That this meeting sees in this state of things the commencement of that system from which the coalwhippers suffered so much in times past, and feels morally certain that if the practice is allowed to progress unrestrained by law, that the number employed by agents will go on increasing, until nearly the whole of the coalwhipping trade is again performed through a system of agency, which the late Act of Parliament was passed to protect the coalwhippers from.

2d Resolution; proposed by John Farrow, and seconded by John Cronin,—

That this meeting, composed almost entirely of coalwhippers, sees with the utmost alarm, that they are being gradually taken back to work under the old system of public-house truck agency.

That a large number already are, and nearly all bid fair to be again compelled to accept the greater part of their earnings in intoxicating drinks, and that drunkenness is and will be the only medium through which they can ensure employment.

That the abomination of this system imperatively demands the interference of the public and the united exertions of the coalwhippers to suppress them, and this meeting hereby determines to use every exertion to represent the facts of the case to the Government and the Legislature, and not rest satisfied until they again obtain the power of the law to put down those evil practices, which reduce the coalwhippers to a state of vice and misery.

No. 2.

Coalwhippers' Office,

Sir, 8th October 1856.

THE committee of this office have received the papers you addressed to them, purporting to emanate from a meeting of the coalwhippers, in which they are requested to consider, first, whether they have sufficient powers to deal with certain evils asserted to exist; then, if they find they have not sufficient powers, to devise some temporary protection from these evils until Parliament shall meet, and afterwards to join in an application to the Legislature for a renewal of the Coalwhippers Act, which expired at the end of last Session. They contain also the offer of an interview between a deputation of the meeting and this committee.

The committee, who throughout have been anxiously watchful of the facts, know that they are greatly, though no doubt inadvertently, exaggerated in your memorial.

The number of vessels discharged through publicans is very inconsiderable in comparison with that discharged through this office and by other persons connected with the London coal trade, who do not require the intervention of public-houses in their dealings with their men. It is unnecessary at present, however, to pursue this part of the subject, but the committee are rather desirous of pointing out to you the objects which the Legislature had in view in leaving to private individuals connected with the trade the regulation of the large body employed in it that you profess to represent.

The

The late Act was passed because, at the time of its passing, there was no mode by which you could obtain employment except through the public-houses, with their attendant evils, of which you so justly complain, and no persons were able to supply an organization through which you could unfettered seek employment and the shipmasters get the requisite labour. It was not renewed because an offer to supply such an organization was made; and this committee have endeavoured faithfully to carry out the pledge then given.

They never proposed to obtain for you a monopoly of the work, nor would it have been possible to obtain it by legislative enactment; all they did propose to do was to offer you freedom from the publicans, and it was obvious that your own co-operation is necessary to this end. If, however, any of you prefer to accept the offers they make to you and work through them, as the committee have ascertained that some of you do, at lower rates than those obtained through this office, it would be in vain to apply to Parliament for the remedy of an evil that you refuse to avoid when the means are open to you.

The committee are using and will continue to use their influence to bring the work to this office, but on your part you must enable them to offer to do it on terms as low as others will undertake it for.

They do not consider that an interview at present would be productive of any good, and decline, therefore, with all good wishes the attendance of your deputation.

I am, &c.
(signed) J. Forster,
Chairman of the Committee.

Mr. George Seale,
22, London-street, Ratcliff.

No. 3.

Weekly Earnings of the whole Number of Men who have been at Work since the Establishment of the Coalwhippers Office.

For the Week ending	Number of Gangs existing.	Number of Gangs actually cleared.	Average per Man per Week.
1856:			£. s. d.
August - 8	123	66	- 18 9½
15	120	52	1 2 10¼
22	117	71	- 17 11¾
29	114	77	1 1 6¾
September 5	111	58	1 - 6¾
12	108	73	1 2 3¾
19	105	50	- 18 7
26	102	80	- 17 1½
October - 3	99	46	1 1 5
10	96	51	- 17 6¾
18	93	61	- 18 2½
25	93	60	- 17 5½
November 1	93	72	- 18 11¼
7	93	62	1 - 4¾
14	88	82	- 18 10½
21	89	76	- 19 4
28	91	56	1 - 4¾
December 5	91	79	- 19 1¼
12	90	69	1 - 6
19	88	40	- 18 2¾
26 - (5 working days)	88	70	- 17 9
1857:			
January - 2	88	86	- 18 3
9	90	61	- 19 3
16	90	50	- 19 7½
23	90	53	- 17 5¼
30	88	79	- 19 11
February - 6	88	65	- 19 -
13	88	71	- 18 -
20	88	57	- 18 5
27	88	all	1 - 3¼

No. 4.

Appendix B.

No. 4.

ESTIMATE of Number of Tons of COAL discharged at Wharves and in Docks.

	Tons.
West India Docks - - - - - - - -	250,000
Regent's Canal - - - - - - - -	500,000
Dudman's Dock - - - - - - - -	200,000
Angerstein's Wharf - - - - - - - -	20,000
Woolwich and below - - - - - - - -	60,000
Greenwich, Deptford, &c. - - - - - - -	150,000
Rotherhithe to London Bridge - - - - - -	150,000
Wapping to Limehouse - - - - - - -	300,000
Blackwall to Bow Creek - - - - - - -	60,000
	1,690,000
Gangs employed by Coal Merchants and others, not Publicans, can discharge - - - - - -	500,000
Tons - -	2,190,000
Which, deducted from 3,119,000 tons imported last year, leaves for the office about - - -	900,000

I N D E X.

[*N. B.*—In this Index the Numerals following *Rep. p.* refer to the Page of the Report; the Figures following the Names of the Witnesses, to the Questions of the Evidence; and those following *App. p.* to the Page of the Appendix.]

A.

AGENTS. See *Gas Companies. Private Agents. Regan, Mr.*

B.

Ballast-heavers. The ballast-heavers have an office in connexion with, and under the authority of, the Trinity House which has tended to set right their former serious position, and for which they are most grateful, *Champneys* 929——Witness has not heard of any complaints from the shipowners respecting this office, *ib.* 930.

Barber, John. (Analysis of his Evidence.)—Manager of the coalwhipper's office; was for twelve years engaged in the management of the former office established under Act of Parliament, 464, 465——Evidence showing that the men earn a larger average of wages under the present office than they did under the former office, and witness considers that the condition of the men will be generally improved, 466, 467. 470–504——The men who are engaged through the office are protected from the exactions of the publicans, 468, 469——The whole of the 700 men now in the office may be considered efficient, and are all paid alike; the old and infirm men were discontinued in the new office, 505-508. 510.

Under the old system the infirm and inefficient men could compel the office to take them on, 509. 511–523——Witness attributes the fact of the men having better wages under the new office than under the old one to the great reduction in the number of gangs, and to the inefficient hands having been got rid of, 524–533——At the beginning of the new office there was occasionally a demand for more men than could be supplied; way in which this difficulty has since been met, 533–536——There is no doubt that the present system works well, and witness would like to see the work of the office increase, 537.

From witness's experience he would state decidedly that the men are earning better wages, and at a less cost to the coalowner and shipowner in the north, than they did under the old system, 538–542——The practice of engaging gangs at public-houses has increased lately, but not to any great extent, 543——Witness does not think there is any great danger of the old state of things recurring, in which the publicans will have the greatest command in the number of gangs, 544–546——Reason why the object of the present office has been to reduce the number of gangs, 547–554.

Some few of the office men are careful men, but there is not much opportunity for saving money, 555——It has been under the consideration of the committee to have two separate gangs, one for night and one for day work, but there are difficulties in the way of this, 556–558——Mr. Cory's men work night and day, 559——Regan could not get men to do it, as he merely picks up men along shore, and they are not equal to it, 560, 561——The reason why he gets so much employment for his people is that he works for the shipowners under price, 562–566——He carried on the same system under the late Act, and was often pulled up before the police court, 567, 568.

The old Act was very inefficient, and could be evaded in many instances, 569, 570——Reasons why the shipowners are now getting coals unloaded at a cheaper rate than under the old system; it is now a system of competition, and certainly not an unfair competition, 571–579——The office gangs were on one occasion out of employment for three weeks;

Report, 1857—*continued.*

Barber, John. (Analysis of his Evidence)—*continued.*

weeks; this was owing to the non-arrival of ships from the north, 580–585——Evidence showing that the present office is self-supporting; the only deduction from the men is a farthing in the shilling; this was the same in the old office, which was not found sufficient, 586–596——The competition going on between those in the office and those out of the office has been the cause of the great suffering amongst the people, 597, 598.

The low price of coal to the consumer arises not only from the low price of whipping, but also from the competition in the trade, one merchant against another, 599——There was one strike for a short time during the operation of the Act; the office was working at that time from 4½*d.* to 9*d.*; the men got their price, 600–605——The men on two or three occasions voluntarily lowered their price, 606–612—— It is decidedly a disadvantage to the shipowners and coalowners to have wages kept up compulsorily by any Act of Parliament, 613–616.

The objection of the coalowners to the operation of the Act was that they thought it too much of a monopoly, 617——The fines were also very annoying to them, 617——Witness does not know any coalowner who would wish the old Act to be continued, 618, 619——How far there are any means of knowing the ships which come to be unloaded at the office, and those which come to be unloaded elsewhere, 620——The wages got by the men employed by private parties are more than those got from the office, 621, 622——Evidence as to Mr. Cory employing men of his own; he could also do this under the old Act, as they were his own *bonâ fide* servants, 621–630.

Before the passing of the late Act the ships were whipped by the same process as they are now; the gangs were generally supplied from the public-houses, 631–634——The system of the public-house was bad in every way; bad for the employer as well as for the employed, 635–637——Witness does not think there is any danger of this system being again reverted to, 638, 639——Opinion that the trade generally has adhered to the agreement which was come to at the period of the establishment of the new office, 640–648. 653——Further evidence as to the complaints under the old office of the inefficiency of the gangs, 649–652.

One main cause of the evil existing in former days among the coalwhippers arose from the fact of the shipowner being the sole importer of coals, 654–657——The present system is very injurious to the coalwhippers so far as regards the public-houses, 658–669——Witness would like to see any alteration which would totally prevent the men going to public-houses, without creating a monopoly, 666–668.

[Second Examination.] When witness, in his former examination, stated to the Committee that on a certain day all the men in the office were employed, he meant to convey the impression that none of them were unganged; witness certainly did not mean that all the gangs were employed, 1128–1132——Way in which the gangs are made up, 1133–1138——There were 125 gangs when the old office closed; these have since been reduced to eighty-two; way in which the men were struck off, 1139–1141——The selection of the gangs is now in the hands of the basket-man; he is responsible for doing the work properly, 1142——Way in which the vacancies, as basket-men, are filled up, 1143–1149. 1154–1161.

Opinion that eighty-two gangs are sufficient to do the work at present required in the river, 1150–1153. 1162–1167. 1192–1201——The demand for the gangs necessarily varies accordingly as the ships come in; at times there is not a gang but what is at work, and at others perhaps not more than twenty are at work, 1168–1171——Evidence as to the data on which the statement delivered in to the Committee relative to the average wages earned by the coalwhippers in the office was drawn up, 1172–1191——There are a number of men who are employed by publicans, and also a number who are not in the employment of any regular coalowner or shipowner; they compete with the office men wherever they can, 1202, 1203——Consequently the price for which coal is whipped is lowered by this competition, 1204.

Barthorpe, Henry. (Analysis of his Evidence.)—Clerk at the Ballast-heavers' office; was a coalwhipper for more than twenty-years, 1, 2——Worked about 10 years at the coalwhippers' office, till within about two years of the Coalwhippers' Act expiring, and ten years under the public-house system, 3, 4——Evidence showing that at the period of the introduction of the Coalwhippers' Act the greatest possible necessity for some change existed; great evils of the truck system which was prevalent at that period, 5, 6——The change made by the introduction of the Act gave the greatest satisfaction to the coalwhippers, 7, 8——Grounds on which witness forms the opinion that the coal merchants, shipowners, and coalowners were also favourable to the change, 9.

The private office has done some little good, but matters are fast approaching to the old system, 10–13——There is perhaps not quite so large a number of men engaged from the publicans as from the office; but still the number is very considerable, 13–15. 21, 22——Grounds on which witness forms the opinion that the shipowners, as a body, are not opposed to the renewal of the Act, 16–19——The Act expired in the last Session of Parliament, 20——The principal complaints arise from the publicans getting the work; they take

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Barthorpe, Henry. (Analysis of his Evidence)—*continued.*

take it at a lower rate than the office, and the captains, from motives of relationship or influence, encourage them in preference to the office, 23–27.

Both the men engaged from the publicans and those engaged from the office get very bad pay now, 28——Evidence showing that the men engaged by the publicans are compelled to take out some of their wages in drink, 29, 30——Owing to a great quantity of coals being now brought by railway and ships being discharged by means of machinery, the number of coalwhippers has rather diminished within the last twenty years, 31–35——The publicans get the men into their hands by letting them run up a score, and then they receive their wages, 36–42.

During the ten years preceding the passing of the Act the wages were 11 *d.*, 9 *d.*, and 8 *d.* per ton; this was previously to the establishment of the office, 43–49. 52, 53——During the existence of the office the wages were 9 *d.*, 8 *d.*, and 7 *d.* per ton, 50. 52, 53——Since the cessation of the office the men are receiving about 7 *d.* per ton, 51——In the gangs that were engaged from the office the men were not all equally efficient; a proportion of old or inferior men were always mixed with them, 54–58——Evidence showing that this was also the case with the public-house gangs, 59–62——Before the passing of the Act strikes were of frequent occurrence, but witness never knew of one since, 63–68. 79, 80.

The establishment of the office was of great advantage to the shipowners, from the fact of there always being an instant supply of men when a glut of ships arrived, 70——It was also advantageous to the men from their names being on a register, and their knowing when they would be called upon, 71, 72——The complaints of the men now being badly off are very frequent; they complain that the present office is powerless to effect what it professes, 73–78. 86–91.

Witness would say that the price of coal was not raised by the establishment of the office, 81——Witness knows that the coal merchants have received payment from the shipowners, and paid the men, 82——Witness believes that the coal merchants and the shippers are not averse to the establishment of an office, 83, 84——Opinion that the supply of shipping has decreased, 85——There is every appearance of the old evils of the public-house system coming again into operation, 92——No voluntary office would correct this evil, 93.

Basket-Men. Witness is what is called a basket-man; in the present office the basket-men are not paid higher than the other men; in the old office they were paid higher, *Farrow* 1113, 1114——Way in which the vacancies are filled up, *Barber* 1143–1149. 1154–1161——Many of the basket-men pay the men at the public-houses, *Foley* 1211–1237——If it were known that the basket-man paid the men at a public-house he would be dismissed, *Chapman* 1476. 1487–1491. 1559–1564.

See also *Gangs. Payment of the Men.*

Bonâ Fide Servants. Evidence showing the way in which the clause in the late Act allowing the employment of *bonâ fide* servants was evaded, *Coomber* 186–205——Great abuses arose under the late Act, from the clause allowing parties to employ what they termed their *bonâ fide* servants, *Morton* 1389–1394.

See also *Cory, Mr. Gas Companies.*

C.

Captains. Reasons why the captains of many of the vessels were opposed to the operation of the Act, *Coomber* 232–238——So far as regards the captains, witness is informed that they think they derive some benefit from working from the office, *Fryer* 325.

See also *Coalowners.*

Cessation of the Act. Witness is not aware of any evils that have resulted to the coalowners, to the shipowners, or to the coalwhippers themselves from the cessation of the Act, *Charrington* 112.

Champneys, Rev. William Weldon. (Analysis of his Evidence.)—Rector of the parish of Whitechapel, 927——A great number of the coalwhippers reside in witness's parish, and he has made it his business, as in the case of the ballast-heavers, to ascertain by personal investigation at their houses their present state, 928——The ballast-heavers have an office in connexion with and under the authority of the Trinity House, which has tended to set right their former serious position, and for which they are most grateful, 929——Witness has not heard of any complaints from the shipowners respecting this office, 930.

Evidence, in detail, showing from personal observation, that the coalwhippers were very much better off under the operation of the Act than they have been during the last nine months under the system of the model office, 931–957——In many instances the

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Champneys, Rev. William Weldon. (Analysis of his Evidence)—*continued.*

men do not now earn more than 10*s.* a week and sometimes less, whereas under the old system they earned from 16*s.* to 25*s.* a week, 931–957——From the inquiries witness has made, he attributes this to the fact of the publicans and other agents having now got at least a third of the trade, 958. 969, 970——From personal knowledge witness can state that a very large body of the coalwhippers after the establishment of the former office, became a most sober and respectable body of men, and deeply grateful for the boon that had been conferred upon them, 959, 960.

The system of engaging the men at public-houses is decidedly bad and universally condemned; it should be made penal for the publicans to engage the men; witness would not object to the shipowners being also placed in the same position, 961–966. 968——It would however have been far better to have let well alone, as the Act worked universally well, 967——Any system by which wages were prohibited being paid at public-houses would be an advantage, 971, 972——Though from various causes it may be impossible by any legislative enactment to keep up the price of wages beyond what the market will fairly justify, it is possible by such enactment to prevent their being engaged at public-houses, 973–978——Way in which the Act, while it existed, preserved the men from the evil effects of being hired by publicans, 979–983.

Witness, in the evidence he is giving before the Committee, is only reiterating the statements which have been made to him by the men, endorsed by those acquainted with the facts; witness has made no inquiries at the present office to substantiate these statements, 984–996——Without making inquiries at the office witness is perfectly satisfied that a great number of the men are at the present time out of employment, 984, 985. 998–1000.

Witness can give no testimony as to the best way of creating employment for those men who are out of employment, 1001–1006——The evil to which witness's principal attention has been addressed, has been that under the present system a very considerable number of men who were employed under the old Act are now out of employment, 1002——And even among those who are employed, the old evil, the unsound and vicious system of public-house agency, is creeping in, 1002.

The want of demand must of course be the principal reason of the want of employment, 1003–1006——The men seek employment as dock labourers when they cannot get it as coalwhippers; but there is also a large surplus of dock labour, 1007–1009——Witness has not the slightest doubt that there is great distress amongst the coalwhippers at the present time, 1012–1015——Many of them would be glad to go to other parts of the country to seek employment, or to emigrate if they had the means, 1016–1023.

Chapman, Alfred. (Analysis of his Evidence.)—Pay-clerk in the Coalwhippers' Office, 1472——Mode in which the wages earned by the gangs are paid in the office; every individual coalwhipper may receive his wages separately at the office if he chooses, 1473–1480. 1513–1518. 1556–1558——In their absence it is paid to the basket-man, 1476–1480. 1513–1518——If it were known that the basket-man paid the men at a public-house he would be dismissed, 1476. 1487–1491. 1500. 1559–1564——Reasons why the committee of the office thought it better to pay the men once a week instead of when the job was done, 1481. 1497–1499——Reason why this regulation was altered to twice a week, 1482–1486. 1492–1496——There is also a practice of checkering, that is, advancing them 5*s.* at a time; explanation of this practice, 1481. 1501–1512. 1565–1567.

The average earnings of the men actually employed are about 17*s.* or 18*s.* a week, 1519–1523——If divided among the whole of the men it would be about 12*s.* or 13*s.* a week, 1524–1532——There is no doubt that a great many of the outside men are paid at public-houses, but witness does not think that the number of these public-houses has increased since the expiration of the Act, 1533–1537——Evidence in detail relative to the number of gangs employed from the office on Saturday, July the 11th; the number idle, the number of vessels cleared, and those cleared by agents and others, 1538–1555.

Character of the Men. One evil that arose from the old office was, that they had too many men on the list, and many of them of bad character, *Morton* 1413–1420.

Charrington, Thomas. (Analysis of his Evidence.)—Was a coal merchant during the operation of the late Act, 94–98——Witness would say that the operation of the Coalwhippers' Act was decidedly advantageous, though his trade has not suffered by the expiration of it, 99, 100——Opinion that the price of coal has not been affected by the Act having expired, 101. 114, 115——Individually witness can see no objection to the re-enactment of it, 102——With regard to the operation of the present voluntary office, witness can only say that his trade has not been affected by it either for better or for worse, 103——Opinion that the condition of the coalwhippers was materially improved by the passing of the late Act; since the expiration of the Act witness has had no opportunities of judging of their condition, 104–111.

Witness is not aware of any evils that have resulted to the coalowners, to the shipowners or to the coalwhippers themselves from the cessation of the Act, 112——Witness

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Charrington, Thomas. (Analysis of his Evidence)—*continued.*

is at the present time extensively engaged in putting up steam machinery for the purposes of whipping, 116, 117——Opinion that the expense of unloading by machinery will always be guided by the rate of wages which the coalwhippers are receiving, 118–125——Reason why machinery is not likely entirely to supersede manual labour in coalwhipping, 126, 127.

Chaytor, Matthew Hutton. (Analysis of his Evidence.)—Colliery owner and coal-factor; is connected with the General Iron Screw Collier Company; is a member of the coalwhippers' committee, 774——Witness's experience commenced in 1846, at the time the old office was established, 775——Statement of witness's objections to the existence of the system under the recent Act, 776 *et seq.*——The coalowners considered they were paying more for the labour that was done for them than they could get it done for in the open market, 777——The labour was of a very inferior description to that which ought to have been supplied, and they were in a measure compelled to take it, 778–787.

Witness is partner in a company which erected nearly the first steam machinery that was erected in London for the purpose of discharging coals, 788–790——At that time the office price was 9 *d.* a ton, and by machinery, including the interest of capital, it was 4½ *d.*; 790——Opinion that the tendency of the operation of the Act has been to increase the number of ships unloading by machinery, 791–797——The quantity of coal imported into the river has not increased with the increase of the machinery which is used in unloading it, 796——Price now paid for unloading by machinery, 797——Since the establishment of the new office the complaints have almost entirely ceased that used to exist during the continuance of the Act, 798, 799.

The men employed are of a better class, and gradually the inefficient hands have been reduced, 798——The shipowners have been able to unload their coals at a lower rate than they unloaded them under the former office; difference in the price, 802, 803——Reasons why a surplus of labour is always obliged to be kept at the office; the employment is necessarily very irregular, 804, 805——The number of publicans finding men to discharge ships is not on the increase, 806——Witness cannot imagine that there is any great danger of a recurrence of the evils which existed previously to the Act, if the present office is continued, 807.

The wish of the coalowners in the north has been to support the rule, that the coals should be whipped by men taken from the office, 808. 817, 818——There have been some few instances in which the masters of ships have evaded the known wishes of their employers, and have engaged gangs at public-houses from private motives, 809——The best way of remedying this evil would be to make it penal for publicans to find labour for the discharge of vessels, and for captains to pay the men at public-houses, 810–816. 860–863. 878, 879.——Opinion that the great body of the shipowners are not bound by the agreement to employ no other men than those from the office; it is only the coalowners that are so bound, 817–830.

Impossibility of forcing the whole trade to go to the office except by legislative enactment, and witness maintains that this would be unjust, 831–836——The office price depends upon the competition in the open market with those men who are employed by agents or from public-houses; witness apprehends this to be a healthy state of things, 837–844——Machinery may come into competition to reduce the price of labour, but it has not done so yet, 845–850. 867–870——The men are subject to the same chance of employment as other men are, and there ought to be no exception in the case of any particular class; many of the men have other employment, 851–855.

The Welsh coalowners principally discharge by their own crews, 856——Opinion that the rate of wages is likely to continue at about the present level, if labour be not interfered with, 864, 865——Reasons which have led to the present rate of wages being established, 866–870——Opinion that the time is not very far distant when the office will cease to regulate the price at which ships will be unloaded, 871, 872——If the men could be constantly employed at 6 *d.* per ton, they would earn very large wages, 873, 874——The question is not a question of low price, but one of insufficient employment, 873, 874——The rate of wages was lowered during the existence of the old office, 876, 877——The supply of labour through publicans involves drunkenness and its concomitant evils, and witness believes that the present office offers the men the same opportunity of escaping these evils as the old office did, 880–890.

Further evidence showing that there must always be a certain amount of surplus labour, 891–894——The effect of any undue raising of wages would necessarily lead to the establishment of a much larger amount of machinery than at present exists, 895–898——Evidence showing that the committee of the Voluntary Coalwhippers' Office have, to the fullest extent, carried out the engagement which they entered into with Parliament last session, to find employment and accommodation for the men, 895. 898–900——Further evidence showing that most of the ships discharged in the river are discharged by the office, and very few by the publicans, 901–917——The office do not

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Chaytor, Matthew Hutton. (Analysis of his Evidence)—*continued*).

allow their men to go on board ship and make bargains with the captains; the case of Sullivan is a solitary case, 921-923——Mode of proceeding as to price when the master of a ship comes to the office for a gang to discharge a cargo, 924-926.

Checkering. There is a practice of checkering, that is, advancing the men 5 *s.* at a time; explanation of this practice, *Chapman* 1481. 1501–1512. 1565–1567.

Coal Merchants. Witness knows that the coal merchants have received payment from the shipowners and paid the men, *Barthorpe* 82——Witness believes that the coal merchants and the shippers are not averse to the establishment of an office, *ib.* 83, 84.

Coal Meters. Duties of the coal-meters, and way in which they are appointed, *Coomber* 129, 130——Opportunities the coal-meters have of finding of the work of the coal-whippers, *ib.* 131.

Coalowners. In witness's opinion the only benefit which the coalowners and shipowners derive from the present system is about 1 *d.* a ton, *Fryer* 326–328——Reference to two deputations, comprising all the leading coalowners and their representatives, having waited on the Board of Trade last year against the Act, *Forster* 343——Allegations of these deputations that the cost of discharging coals was enormously raised by it, *ib.* 343-346——Witness does not know any coalowner who would wish the old Act to be continued, *Barber* 618, 619.

Under the old Act the coalowners considered they were paying more for the labour that was done for them than they could get it done for in the open market, *Chaytor* 777——The wish of the coalowners in the north has been to support the rule that the coals should be whipped by men taken from the office, *ib.* 808. 817, 818——There have been some few instances in which the masters of ships have evaded the known wishes of their employers, and have engaged gangs at public-houses from private motives, *ib.* 809——The best way of remedying this evil would be to make it penal for publicans to find labour for the discharge of vessels, and for captains to pay the men at public-houses, *ib.* 810–816. 860–863. 878, 879.

There is no doubt that great benefit has been experienced from the establishment of the new office; steps taken by the coalowners of the north in the formation of this office, *Norton* 1341–1344——The coalowners of the north are decidedly opposed to the employment of what are called publicans' gangs, *ib.* 1362–1364. 1423–1431.

See also *Competition. Fines. Monopoly. Voluntary Office.*

Coal Trade. Witness would say that the operation of the Coalwhippers Act was decidedly advantageous, though his trade has not suffered by the expiration of it, *Charrington* 99, 100—— With regard to the operation of the present voluntary office, witness can only say that his trade has not been affected by it either for better or for worse, *ib.* 103.

Competition. Witness attributes the present low rate of wages to competition and the want of employment generally, *Coomber* 288-293——Reason why the shipowners are now getting coals unloaded at a cheaper rate than under the old system; it is now a system of competition, and certainly not an unfair competition, *Barber* 571–579——The low price of coal to the consumer arises, not only from the low price of whipping, but also from the competition in the trade, one merchant against another, *ib.* 599.

The office price depends upon competition in the open market with those men who are employed by agents or from public-houses; witness apprehends this to be a healthy state of things, *Chaytor* 837-844——There are a number of men who are employed by publicans, and also a number who are not in the employment of any regular coalowner or shipowner; they compete with the office men whenever they can, *Barber* 1202, 1203——Consequently the price for which coal is whipped is lowered by this competition, *ib.* 1204——Witness does not see that coalowners should be called upon to pay more for labour than it can be obtained for in the open market, *Morton* 1402–1411.

See also *Condition of the Men. Machinery.*

Compulsory Labour. Before the Act expired the men were at liberty to refuse the job if they did not think it would pay; they cannot do so now, *Sullivan* 697–700.

Condition of the Men. Opinion of the Committee that the present condition of the coal-whippers, as a class, is deserving of consideration, *Rep. p.* iii——The complaints of the men being badly off now are very frequent; they complain that the present office is powerless to effect what it professes, *Barthorpe* 73-78. 86-91——Opinion that the condition of the coalwhippers was materially improved by the passing of the late Act; since the expiration of the Act witness has had no opportunity of judging of their condition, *Charrington* 104–111—— The condition of the men was decidedly better during the operation of the Act than it has been since, *Coomber* 154–156——Judging from appearances, witness is certain that, since the expiration of the Act, the condition of the coal-whippers

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whippers has been worse than it was during the operation of the Act, *Fryer* 329—— Opinion that this arises from so few ships being worked from the office and so many from the public-houses, *ib.* 330–333. 336–341.

Some few of the office men are careful men, but there is not much opportunity of saving money, *Barber* 555——The competition going on between those in the office and those out of the office has been the cause of the great suffering amongst the people, *ib.* 597, 598——A great number of the coalwhippers reside in witness's parish, and he has made it his business, as in the case of the ballast heavers, to ascertain by personal investigation, at their houses, their present state, *Champneys* 928——Evidence in detail, showing from personal observation, that the coalwhippers were very much better off under the operation of the Act than they have been during the last nine months under the system of the model office, *ib.* 931-957——From personal knowledge witness can state that a very large body of the coalwhippers, after the establishment of the former office, became a most sober and respectable body of men, and deeply grateful for the boon that had been conferred upon them, *ib.* 959, 960.

Witness has not the slightest doubt that there is great distress amongst the coalwhippers at the present time, *Champneys* 1012–1015 ——Witness was well acquainted with the state of the coalwhippers from about the year 1842; the most distressing statements respecting them were often made to witness about that time, in consequence of the official position he then held at the Board of Trade, *Right Hon. W. E. Gladstone* 1671, 1672——On this account witness introduced the Act of 1843, though he approached the subject with the strongest possible prejudice against the proposal, *ib.* 1673——The operation of the Act fully answered witness's expectations, *ib.* 1676.

See also *Drunkenness.* *Public-house Gangs.* *Wages.*

Consumers. See *Competition.* *Price of Coals.*

Contracts. Particulars in detail relative to a case in which witness once took a contract at 8*d.*, and which the office attempted afterwards to reduce to 6*d.*; witness afterwards got 7*d.* by summoning the parties before the police magistrates, *Sullivan* 680-690; 731–735. 741–745. 768–773——The office do not allow their men to go on board ship and make bargains with the captains; the case of Sullivan is a solitary case, *Chaytor* 921–923.

Coomber, George. (Analysis of his Evidence.)—Is a coal-meter, 128. 132 ——Duties of the coal-meters, and mode in which they are appointed, 129, 130——Opportunities the coal-meters have of judging of the work of the coalwhippers, 131——Evidence as to the system of gangs, by which the coalwhippers engage with owners of vessels, 133 *et seq.* —— The manner in which the engagement of the gang is made depends upon where it is employed from, 134——There are many employed from public-houses, and many from private individuals; some are employed from the Coalwhippers' Office, 134——Plan adopted at the Coalwhippers' Office, *ib.*——System pursued where they they are employed from the publicans, 134–140.

Witness would most decidedly prefer a gang of whippers engaged at the coal trade office, to a gang engaged through the medium of a public-house, 141–144—— The one set of men are sober men, and the others may not be so, 144 —— The position in which the present office appears to be is that it gets a very small share of the work, owing to private interest, 145–153—— There is no other way of remedying the evil except by an Act of Parliament to compel the men to go to the office, 147——The condition of the men was decidedly better during the operation of the Act than it has been since, 154–156.

If a sober man is employed at a public-house he will very soon be turned out, as it will not answer the purpose of the publican to keep him there, 156——There are a very considerable number of the men employed from the public-houses, but witness has no means of stating the proportion so employed, 156–166——Further evils arising from the want of an efficient office, 167 *et seq.*——There is no sort of control by captain or meter over a drunken man, 169——Ships are often detained from the want of sober men to work them, 169–172 —— This may be said to be the fault of the shipowner, as there is the office to go to, but private interests always interfere, 173–175.

Number of cases in which public-house gangs have been employed which have come under witness's notice since the expiration of the Act, 176–179——Witness has not seen any cases of drunkenness except where the men have been engaged from public-houses, 180–185——Evidence showing the way in which the clause in the late Act, allowing the employment of *bonâ fide* servants, was evaded, 186–205——Witness is of opinion that the amount of work done through the public-houses is on the increase, 211–221.

The whippers employed by the gas companies are perhaps, strictly speaking, what the Act terms *bonâ fide* servants, 222–226——Before the first Act was obtained, drunkenness was tenfold what it is now, but during the operation of the Act it was altogether unknown;

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Coomber, George. (Analysis of his Evidence)—*continued.*

since the expiration of the Act it begins to show its head again, 227–229 —— Reasons why the captains of many of the vessels were opposed to the operation of the Act, 232–238.

Witness never heard of any difficulty in getting men to unload a ship, 239–244—— Great amount of surplus labour at the present time; various causes of this, 244 *et seq.* ——The introduction of machinery is one cause, 245 —— The publicans and private individuals also draw work from the office, 245–247——Many of the men are working at 6 *d.* per ton, which is starvation price; men from the office are working as cheaply as this, 248–253.

Evidence showing that the regulations of the present office are wholly inefficient, 254, 255——Great advantage which would result to the office men if the public-house system were put an end to, 256–264——System pursued at the public-houses in getting the men into debt in the first instance, 265–268—— Reasons why witness supposes parties connected with the trade were opposed to the operation of the Act, 269–276——Witness approves of the office as being for the good of all parties; any office rather than going to public-houses for employment, 277, 278 —— Opinion that making it compulsory to go to an office would not raise the price of wages, 279–287 —— Witness attributes the present low rate of wages to competition and the want of employment generally, 288–293.

Cory, Mr. Mr. Cory, being a coal merchant, employs his own *bonâ fide* servants, *Fryer* 311, 312 —— Mr. Cory's men work night and day, *Barber* 559 —— Evidence as to Mr. Cory employing men of his own; he could also do this under the old Act, as they were his own *bonâ fide* servants, *ib.* 621–630——Witness has done one day's work for Mr. Cory, but had great trouble in getting his money from the basketman, *Finn* 1038–1041.

Cost of Whipping. Evidence showing that the cost of unloading coals has diminished since the cessation of the Act, *Forster* 351——The shipowners have been able to unload their coals at a lower rate than they unloaded them under the former office; difference in the price, *Chaytor* 802, 803——One great objection which was entertained by the coalowners to the system which existed under the old Act was the price, which was the 9 *d.*, *Morton* 1331–1333——It was considered to be an interference between the employer and the employed, and this led to the erection of machinery, and the work was done for 5 ½ *d.*, *ib.* 1334, 1335——Since this time several machines have been erected on the river, and the coals are now worked at 4 ½ *d.*, *ib.* 1335–1339 —— Sums received in each month for whipping coals by the new office from 1st August 1856 to 30th June 1857, *App. p.* 142.

See also *Coalowners. Competition. Machinery.*

D.

Deductions from Wages. One farthing in the shilling is deducted for the expenses of the office, *Forster* 454, 455.

Detention of Ships. Ships are often detained from the want of sober men to work them, *Coomber* 169–172——This may be said to be the fault of the shipowner, as there is the office to go to; but private interests always interfere, *ib.* 173–175.

Drunkenness. There is no sort of control by captain or meter over a drunken man, *Coomber* 169——Witness has not seen any cases of drunkenness except where the men have been engaged from public-houses, *ib.* 180–185 ——Before the first Act was obtained drunkenness was tenfold what it is now, but during the operation of the Act it was altogether unknown; since the expiration of the Act it begins to show its head again, *ib.* 227–229——Witness believes that the conduct of the men since the expiration of the Act has been generally very satisfactory; rarity of complaints of drunkenness, *Forster* 393–395.

E.

Efficiency of the Men:

1. *Difficulty under the Old Office of procuring Efficient Gangs.*
2. *Efficiency of the Men in the present Office.*

1. *Difficulty under the Old Office of procuring Efficient Gangs:*

In the gangs that were engaged from the office the men were not all equally efficient; a proportion of old or inferior men were always mixed with them, *Barthorpe* 54–58—— Evidence showing that this was also the practice with the public-house gangs, *ib.* 59–62 —— Witness is not aware that during the operation of the Act there were any particular complaints as to the difficulty of procuring efficient men, *Fryer* 334, 335.

Under the old system the infirm and inefficient men could compel the office to take them on, *Barber* 509. 511–523—— Complaints under the old office of the inefficiency of the

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Efficiency of the Men—continued.

1. *Difficulty under the Old Office of procuring Efficient Gangs*—continued.

the gangs, *Barber* 649-652——Under the old Act the labour was of a very inferior description to that which ought to have been supplied, and they were in a measure compelled to take it, *Chaytor* 778-787.

2. *Efficiency of the Men in the Present Office:*

The whole of the 700 men now in the office may be considered efficient, and are all paid alike; the old and infirm men were discontinued in the new office, *Barber* 505-508. 510—— Since the establishment of the new office the complaints have almost entirely ceased that used to exist during the continuance of the Act, *Chaytor* 798, 799——The men employed are of a better class, and the inefficient hands have been gradually reduced, *ib.* 798——The character of the labour which has been obtained from the new office has been of an improved description, *Morton* 1346-1348.

Emigration. Many of the men would be glad to go to other parts of the country to seek employment, or to emigrate if they had the means, *Champneys* 1016-1023.

Employment. There are often a large number of the gangs idle at one time, *Sullivan* 701-708—— There is a great deal less work now than there used to be; this is owing to the ships being so much scattered about, *ib.* 758. 759——The men are subject to the same chance of employment as other men are, and there ought to be no exception in the case of any particular class; many of the men have other employment, *Chaytor* 851-855——The question is not one of low price, but one of insufficient employment, *ib.* 873, 874.

Without making inquiries at the office, witness is perfectly satisfied that a great number of the men are at the present time out of employment, *Champneys* 984, 985. 998-1000——Witness can give no testimony as to the best way of creating employment for those men who are out of it, *ib.* 1001-1006——The evil to which witness's principal attention has been addressed has been that under the present system a very considerable number of men who were employed under the old Act are now destitute of employment, *ib.* 1002——And even among those who are employed the old evil, the vicious system of public-house agency, is creeping in, *ib.*——The want of demand must of course be the principal reason of the want of employment, *ib.* 1003-1006.

The men seek employment as dock labourers when they cannot get it as coalwhippers, but there is also a large surplus of dock labour, *Champneys* 1007-1009——Evidence showing that there is plenty of employment in the north for those that are dissatisfied, if they would but go there, *Morton* 1353-1357. 1373, 1374. 1396-1403. 1446-1450——Witness has understood that it is the intention of the office to further reduce the number of men till they can insure employment to the whole of the men in the office, *ib.* 1371-1374——Evidence in detail relative to the number of gangs employed from the office on Saturday the 11th of July; the number idle, the number of vessels cleared, and those cleared by agents and others, *Chapman* 1538-1555.

See also *Gangs. Supply of Labour.*

Evasions of the Act. The old Act was very inefficient, and could be evaded in many instances, *Barber* 569, 570.——*See* also *Bonâ Fide Servants.*

Evidence. Witness in the evidence he is giving before the Committee is only reiterating the statements which have been made to them by the men, endorsed by those acquainted with the facts; witness has made no inquiries at the present office to substantiate these statements, *Champneys* 984-996.

F.

Farrow John. (Analysis of his Evidence.)—Coalwhipper; works for the office; has worked for it ever since it commenced; worked for the old office, 1085-1088——Statement as to there being forty gangs unemployed on the 13th of July; if any statement has been made that the whole of the men from the office were employed on that day it is false, 1089-1112——Witness is what is called a basket-man; in the present office the basket-men are not paid higher than the other men; in the old office they were paid higher, 1113, 1114.

Fines. The fines under the old Act were very annoying to the coalowners, *Barber* 617.

Finn, Simon. (Analysis of his Evidence.)—Coalwhipper; was employed at the old office under the Act of Parliament, and attended that office till the model office started, 1024-1026——Witness thought he would stick to the model office till he found it would not act, and he found his work was going away, and he was forced to follow it; the best of the work was going to public-houses and elsewhere, 1026-1028——Witness went to work for the Vauxhall Gas Company; evidence as to the pernicious system under which the money was paid to the men through the lightermen and the basket men, and showing

Report, 1857—*continued.*

Finn, Simon. (Analysis of his Evidence)—*continued.*

that the men were kept some hours waiting at the public-house for their money, 1028–1037. 1041. 1046, 1047. 1077–1084——Witness has done one day's work for Mr. Cory, but had great trouble in getting his money from the basket-man, 1038–1041.

Under the old office the men got their wages regularly; this is not the case under the model office, 1042, 1043——The first thing done at the model office which caused great trouble to the men was that they cut the body into two, 1044——One-half stopped at the office, and the others were cut adrift; this was to make good wages for a few, 1044, 1045. 1053–1055——During the existence of the old office the Vauxhall Gas Company used always to take their men from the office, 1048–1052——The agents who take the present work of the gas company get 7*d.* per ton, and the men are only paid 6*d.*; evidence as to what becomes of the odd penny, 1056–1063.

Foley, John. (Analysis of his Evidence.)—Has been a coalwhipper twenty years; was employed previously to the late Act, 1205–1208——There was an Act passed where the captain was compelled to pay the men on board the ship; evidence showing that this Act was not the least advantage to the coalwhipper; way in which it was evaded, and the men were compelled to call at the public-houses, 1208–1210——The public-house system is in full operation now, except as regards the gangs from the new office, 1211——And even the new office by the change in the mode of paying the men has a tendency to send them into the public-houses; way in which this arises; many of the basket-men pay the men at the public-houses, 1211–1237——These are a separate class from those paid by the publicans, and the latter are even worse off, as they would be discharged by the publicans if they did not spend a certain amount of their money in drink, 1238–1241.

For the first five months of the new office witness's average wages were 10*s.* 9*d.*; during the operation of the Act they averaged from 14*s.* to 16*s.* a week, 1242–1245——Evidence showing that the easiest and most advantageous work is now done outside; the gas factory work, for instance, 1245–1247——Witness has given up his employment in whipping for the last six months, as it was not procuring him a living, 1248–1252——Evidence showing the false data upon which the return delivered to the Committee, stating the wages of the men to be 18*s.* 4*d.* on an average, has been drawn up, 1253–1256——The number of public-houses supplying men has greatly increased since the expiration of the Act, 1257–1267.

Steps taken by witness at various times to ascertain the relative number of ships worked from the office, those worked by publicans, and those worked by private individuals and people who call themselves agents; results of these inquiries, 1268–1287——Witness still takes an interest in the business, and would return to it if he could get a living at it, 1288, 1289——Has been on many occasions employed by the coalwhippers to advocate their cause, 1290–1296——Evidence showing that the gas companies, although they do not work directly through the public-houses, work through them in an indirect manner, 1297–1311.

The clause in the late Act allowing gas companies and others to work by their own *bonâ fide* servants, was greatly evaded, 1312–1314——Witness believes that the whole of the men at the office as well as those unemployed, would be willing that the Act should be re-enacted, with a view to protect them from the present system under which they are employed, 1315–1317.

The men fear that the present system has a downward tendency to go back to the old system, 1317–1319——Witness is fully convinced that nothing short of legislative enactment would work satisfactorily, 1320–1323——The Act might be so modified as to give great satisfaction to every impartial man in the kingdom, 1324——Under the late Act there was a very wholesome clause to keep the men in check from raising the wages too high, 1325–1327——There was only one strike during the operation of the Act, 1328.

[Second Examination.]—Explanation of an error witness made in his former evidence as to the number of ships unloading from the office on Saturday the 11th of July, 1630–1632.

Forster, John. (Analysis of his Evidence.)—A merchant and coalowner; is also chairman of the present Coalwhippers' Office, 342——Reference to two deputations, comprising all the leading coalowners and their representatives, having waited on the Board of Trade last year against the Act, 343——Allegation of these deputations that the cost of discharging coals was enormously raised by it, 343–346——Offer made by them that if the Act were allowed to drop they would establish an office at which those who required men should be able to engage them without resorting to public-houses, 343. 347, 348——This agreement was committed to writing; copy thereof delivered in and read, 349.

The present office has always been able to afford gangs for vessels requiring them, and at the present time they are all engaged and paid full wages, 350. 360–363——Evidence showing that the cost of unloading the coals has diminished since the cessation of the Act, 351——Comparison between the wages earned by the men at the present office, and

the

Report, 1857—*continued.*

Forster, John. (Analysis of his Evidence)—*continued.*

the wages earned by them at the former office; at the present office the average is about 17*s.* a week, and at the Parliamentary office it was about 13*s.* 7*d.*; 352-356. 364-379. 388-391. 452, 453. 456-463.

As regards the wages of those employed from other sources than the office, witness believes that the office is slightly undersold to the extent perhaps of a halfpenny a ton, 357——The publicans charge 6 ½*d.*, and Mr. Regan and other independent employers of labour charge the same, 357——At the office the charge is 7*d.*; 358——With regard to the two or three public-houses which carry on the business on any scale, the employment is too irregular to enable any statement of average wages to be made, 359.

Return delivered in of the annual gross sums which the Parliamentary office received for the discharge of coals, commencing in 1844; 379——This return shows that there had been a gradual diminution, 380——This has arisen from the employment of private gangs and the introduction of machinery; the introduction of machinery is generally on the increase, 381-385——Witness believes that the conduct of the men since the expiration of the Act has been generally very satisfactory; rarity of complaints of drunkenness, 393-395——Opinion that the furnishing of gangs by public-houses is not on the increase, 396-403.

When the agreement alluded to above was come to there was a distinct understanding on the part of the whole trade to support the proposed office, 404-423——Witness believes that this understanding has been rigidly attended to with very few exceptions, and in all cases of deviation from it the parties have been written to, 404-423——The total number of coalwhippers is about 1,100; upwards of 700 of them are employed in the office as whippers. 424-426. 431, 432.

The office discharges about three-fifths of the whole number of ships coming into the Thames; about one-twelfth is discharged by publicans, and the remainder by gas companies and private undertakers, 427-430——The 700 men in the office have nothing to do with the public-houses, 433-435——There is no register at the present office; the men go there and get themselves into a gang under the basket-men; the gangmen take their turn, and no favouritism is shown, 436-451——The men are invariably paid at the office, 444, 445——A farthing in the shilling is deducted for the expenses of the office, 454, 455.

[Second Examination.]—Explanation of a statement made by witness in his former evidence as to the whole of the men in the office being employed on Monday the 13th of July; 1115, 1116——Witness lays before the Committee a copy of an explanation of the organisation of the office, delivered to Lord Stanley of Alderley, as President of the Board of Trade in March last, 1117-1120. 1127——The committee of management have always been perfectly satisfied with the conduct of Mr. Barber, the manager of the office; he was registrar of the Parliamentary office, 1121-1127.

Fryer, William. (Analysis of his Evidence.)—Has been a coalmeter about twenty years, 294, 295——Was a coalmeter before the Coalwhippers' Act came into operation, 296——The working of the coal trade previously to the opening of the office was conducted in a most immoral manner, 297, 298——Since the Act has ceased witness has known many instances of captains refusing the men from the office and getting men from private individuals, or from the public-houses, 299-302. 318-324——Particulars relative to a gang worked by a Mr. Regan, who is what is called a middleman; he calls himself an agent, and advertises to work them at 6*d.* per ton, 302, *et seq.*

Many of the captains refuse the office men and go and employ public-house men, or Mr. Regan's men, 303, 304——This has been since the expiration of the Act; Mr. Regan would not have been allowed to work the colliers with these men under the Act, as they could not be considered his *bonâ fide* servants, 305-310. 313-317——Mr. Cory, being a coal merchant, employs his own *bonâ fide* servants, 311, 312——So far as regards the captains, witness is informed that they think they derive some benefit from working from the office, 325——In witness's opinion, the only benefit which the coalowners and shipowners derive from the present system is about 1*d.* a ton, 326-328.

Judging from appearances, witness is certain that since the expiration of the Act the condition of the coalwhippers has been worse than it was during the operation of the Act, 329——Opinion that this arises from so few ships being worked from the office and so many from the public-houses, 330-333. 336-341——Witness is not aware that during the operation of the Act there were any particular complaints as to the difficulty of procuring efficient men, 334, 335.

G.

Gangs. Evidence as to the system of gangs by which the coalwhippers engage with owners of vessels, *Coomber* 133, *et seq.*——The manner in which the engagement of the gang is made depends upon where it is employed from, *ib.* 134——Plan adopted at the

Gangs—continued.

Coalwhippers' Office, *Coomber* 134——System pursued where they are employed from the publicans, *ib.* 134–140.

Reason why the object of the present office has been to reduce the number of gangs, *Barber* 547–554——The gangs wait at the office, and are taken on in regular turn, *Sullivan* 730——Way in which the gangs are made up, *Barber* 1133–1138——There were 125 gangs when the old office closed; these have since been reduced to 82; way in which the men were struck off, *ib.* 1139–1141——The selection of the gangs is now in the hands of the basket-man; he is responsible for doing the work properly, *ib.* 1142——Opinion that eighty-two gangs are sufficient to do the work at present required in the river, *ib.* 1150–1153. 1162–1167. 1192–1201——The demand for the gangs necessarily varies accordingly as the ships come in; at times there is not a gang but what is at work, and at others perhaps not more than twenty are at work, *ib.* 1168–1171——Number of gangs employed and average wages of the men therein, from the Coalwhippers' Office, from 25th October 1856 to 30th January 1857, *App. p.* 141.

See also *Efficiency of the Men.* *Employment.* *Supply of Labour.*

Gas Companies. The whippers employed by the gas companies are perhaps, strictly speaking, what the Act terms *bonâ fide* servants, *Coomber* 222–226——Witness went to work for the Vauxhall Gas Company; evidence as to the pernicious system under which the money was paid to the men through the lightermen and the basket-men, and showing that the men were kept some hours at the public-house waiting for their money, *Finn* 1028–1037. 1041. 1046, 1047. 1077–1084——During the existence of the old office the Vauxhall Gas Company used always to take their men from the office, *ib.* 1048–1052——The agents who take the present work of the gas company get 7 *d.* per ton, and the men are only paid 6 *d.*; evidence as to what becomes of the odd penny, *ib.* 1056–1063.

Evidence showing that the easiest and most advantageous work is now done outside the office; the gas factory work for instance, *Foley* 1245–1247——Evidence showing that the gas companies, although they do not work directly through the public-houses, work through them in an indirect manner, *ib.* 1297–1311——The clause in the late Act allowing gas companies and others to work by their own *bonâ fide* servants was greatly evaded, *ib.* 1312–1314.

Mr. Jones is a coal merchant, and is connected with the chartered gas company also, *Trustham* 1569. 1570——Up to Michaelmas 1856 the company worked under hydraulic power in Regent's Canal; since that period they have left the canal, and draw the coal at Blackfriars Bridge, *ib.* 1571. 1582, 1583——Way in which they engage their gangs; amount per ton paid to the men; how far the wages may be said to be paid at the public-house, *ib.* 1572–1575. 1583–1589.

Gladstone, Right Honourable W. E., M. P. (Analysis of his Evidence.)—Was well acquainted with the state of the coalwhippers from about the year 1842; the most distressing statements respecting them were often made to witness about this time on account of the official position which he held at the Board of Trade, 1671, 1672——On this account witness introduced the Act of 1843; though he approached the subject with the strongest possible prejudice against the proposal, 1673——The question being whether legislative interference was required, witness was at length induced to look at a remedy of an extraordinary character as the only one applicable to the case, 1673–1675——The operation of the Act fully answered witness's expectations, 1676——Evidence relative to the re-introduction of the Bill by Mr. Labouchere in the last Session of Parliament, and circumstances under which witness was induced to consent to the withdrawal of the Bill, 1677–1682.

When witness first introduced the Act he only introduced it as a provisional Act against an acknowledged evil; but which Act he thought ought in the course of time to cease and determine, 1682–1688. 1698. 1708–1721——Evidence relative to the agreement entered into by the coalowners and shipowners of the north with the Government to establish a voluntary office, 1682–1687——The object of the Bill of 1843 was, if possible, to do what was necessary for securing the entire discontinuance of the public-house system, but to do nothing more, and to leave the trade as free as possible beyond that, 1688. 1699–1707.

It was in order not to introduce unnecessary restrictions on the trade that it was made compulsory on the office to register and form into gangs all the men that offered themselves, the object being not to limit the quantity of labour, 1689–1697——Witness would say that it would be better that the Legislature should allow the evil of the public-house system to exist unless it grew to a very great height, rather than encounter the evils of interference, 1699–1706.

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I.

Immorality. The working of the coal trade previously to the opening of the office was conducted in a most immoral manner, *Fryer* 297, 298.

L.

Legislative Interference. Statement of the Committee that they do not concur in the expediency of reviving the Act of 1843, *Rep. p.* iii——Individually, witness can see no objection to the re-enactmen of the old Act, *Charrington* 102——There is no other way of remedying the present evils except by an Act of Parliament to compel the men to go to the office, *Coomber* 147——It is decidedly a disadvantage to the shipowners and coalowners to have wages kept up compulsorily by any Act of Parliament, *Barber* 613–616——Impossibility of forcing the whole trade to go to the office except by legislative enactment, and witness maintains that this would be unjust, *Chaytor* 831–836.

Though from various causes it may be impossible by any legislative enactment to keep up the price of wages beyond what the market will fairly justify, it is possible by such enactment to prevent their being engaged at public-houses, *Champneys* 973–978——Witness is fully convinced that nothing short of legislative enactment would work satisfactorily, *Foley* 1320–1323——Witness cannot see the object of maintaining an office of this kind by Act of Parliament, which can be maintained without it; it is a most improper thing to interfere in, *Morton* 1412——The question being whether legislative interference was required, witness was induced to look at a remedy of an extraordinary character as the only one applicable to the case, *Right Hon. W. E. Gladstone* 1673–1675——When witness first introduced the Act he only introduced it as a provisional Act against an acknowledged evil, but which Act he thought ought in the course of time to cease and determine, *ib.* 1682–1688. 1698. 1708–1721.

M.

Machinery. Witness is at the present time extensively engaged in putting up steam machinery for the purposes of whipping, *Charrington* 116, 117——Opinion that the expense of unloading by machinery will always be guided by the rate of wages which the coalwhippers are receiving, *ib.* 118–125——Reason why machinery is not likely entirely to supersede manual labour in coalwhipping, *ib.* 126, 127——Opinion that the introduction of machinery does not make much difference, *Sullivan* 760–763.

Witness is partner in a company which erected nearly the first steam machinery that was erected in London for the purpose of discharging coals, *Chaytor* 788–790——At that time the office price was 9*d.* a ton, and by machinery, including the interest of capital, it was 4½*d.*; *ib.* 790——Opin on that the tendency of the operation of the Act has been to increase the number of ships unloading by machinery, *ib.* 791–797——The quantity of coal imported into the river has not increased with the increase of machinery which is used in unloading it, *ib.* 796.

Price now paid for unloading by machinery, *Chaytor* 797——Machinery may come into competition to reduce the price of labour, but it has not done so as yet, *ib.* 845–850. 867–870——The effect of any undue raising of wages would necessarily lead to the establishment of a much larger amount of machinery than at present exists, *Chaytor* 895–898; *Morton* 1340. 1358–1361. 1365–1370. 1421, 1422——The erection of machinery must naturally do away with the river labour, *Morton* 1451, 1452.

See also *Cost of Whipping.*

Model Office. See *Voluntary Office.*

Monopoly. The objection of the coalowners to the operations of the Act was that they thought it too much of a monopoly, *Barber* 617.

Morton, Henry. (Analysis of his Evidence.)—Agent of Lord Durham in the management of his collieries, 1329, 1330——One great objection which was entertained by the coalowners to the system which existed under the old Act was the price, which was then 9*d.*; 1331–1333——It was considered to be an interference between the employer and the employed; and this led to the erection of machinery, and the work was done for 5½*d.*; 1334, 1335——Since this time several machines have been erected upon the river, and the coals are worked at 4½*d.*; 1335–1339——Opinion that if any attempt is made to keep up wages beyond their natural state according to the labour market there would be an increased tendency to erect additional machinery, 1340.

There is no doubt that great benefit has been experienced from the establishment of the new office; steps taken by the coalowners of the North in the formation of the present office, 1341–1344——It has considerably reduced the price at which coals are

Report, 1857—*continued.*

Morton, Henry. (Analysis of his Evidence)—*continued.*

whipped, 1345——The character of the labour which has been got from the new office has been of an improved description, 1346-1348——Opinion that the present wages earned by the coalwhippers, if not high, are at any rate very fair, 1349-1352——Evidence showing that there is plenty of employment in the North for those that are dissatisfied, if they would but go there, 1353-1357. 1373, 1374. 1396-1403. 1446-1450——The old office might be re-established, but it would be impossible to carry it on as it would lead to the erection of such a quantity of machinery that there would not be employment for half the people, 1358-1361. 1365-1370.

The coalowners of the North are decidedly opposed to the employment of what are called publicans' gangs, 1362-1364. 1423-1431——Witness has understood that it is the intention of the office to further reduce the number of men till they can insure employment to the whole of the men in the office, 1371-1374——Witness has no doubt that the old office was the means of keeping up wages, 1375-1385——Even under the operation of the Act, the Act was evaded, and many of the men were employed from public-houses, 1386-1388——Great abuses also arose under the late Act from the clause allowing parties to employ what they termed their *bonâ fide* servants, 1389-1394.

Witness does not see that coalowners should be called upon to pay more for labour than it can be obtained for in the open market, 1402-1411——Witness cannot see the object of maintaining an office of this kind by Act of Parliament which can be maintained without it; it is a most improper thing to interfere in, 1412——One evil that arose from the old office was that they had too many men on the list, and many of them of bad character, 1413-1420.

Any interference with the price of labour will naturally lead to the erection of machinery, 1421, 1422——All the coalowners and persons connected with the office are most desirous that no transaction should pass through public-houses, 1423-1431. 1442-1445. 1453-1471——From the information witness has been able to get he would say that the present average rate of wages in the office is from 17 *s.* to 18 *s.* a week, 1432-1441——The erection of machinery must naturally do away with the river labour, 1451, 1452.

N.

Number of Coalwhippers. Owing to a great quantity of coals being now brought by railway and ships being discharged by means of machinery, the number of coalwhippers has rather decreased within the last twenty years, *Barthorpe* 31-35——The total number of coalwhippers is about 1,100; upwards of 700 of them are employed in the office as whippers, *Forster* 424-426. 431, 432——The office discharges about three-fifths of the whole number of ships coming into the Thames; about one-twelfth is discharged by publicans, and the remainder by gas companies and private undertakers, *ib.* 427-430.

Night Work. It has been under the consideration of the committee to have two separate gangs, one for night and one for day work, but there are difficulties in the way of this, *Barber* 556-558.

O.

Office. See *Condition of the Men.* *Legislative Interference.* *Parliamentary Office.* *Voluntary Office.* *Wages.*

Organization of the Office. Witness lays before the Committee a copy of an explanation of the organization of the office delivered to Lord Stanley of Alderley, as President of the Board of Trade, in March last, *Forster* 1117-1120. 1127.

P.

Parliamentary Office. Return delivered in of the annual gross sums which the Parliamentary office received for the discharge of coals, commencing in 1844, *Forster* 379——This return shows that there had been a gradual diminution, *ib.* 380——This has arisen from the employment of private gangs and the introduction of machinery; the introduction of machinery is gradually on the increase, *ib.* 381-385——Statement of witness's objections to the existence of the system under the recent Act, *Chaytor* 776 *et seq.*

See also *Condition of the Men.* *Employment.* *Gangs.* *Register.*

Payment of the Men. The men are invariably paid at the office, *Forster* 444, 445——There are two pay days in the week, Wednesdays and Saturdays, *Sullivan* 719-729——There was an Act passed where the captain was compelled to pay the men on board the ship; evidence showing that this was not the least advantage to the coalwhippers, *Foley* 1208-1212——Way in which it was evaded, and the men were compelled to call at the public-houses, *ib.* 1208-1210.

Mode

Report, 1857—*continued.*

Payment of the Men—continued.

Mode in which the wages earned by the gangs are paid in the office; every individual coalwhipper may receive his own wages separately at the office if he chooses, *Chapman* 1473–1480. 1513–1518. 1556–1558——In their absence it is paid to the basket-man, *ib.* 1476–1480. 1513–1518——Reasons why the committee of the office thought it better to pay the men once a week instead of when the job was done, *ib.* 1481. 1497–1499——Cause for altering this regulation from once to twice a week, *ib.* 1482–1486. 1492–1496.

See also *Checkering. Public-house Gangs. Wages.*

Phinn, Thomas. Circumstances under which a man of the name of Thomas Phinn was discharged from the service of Mr. Jones; he was discharged because it was thought he had given false evidence before this Committee, *Trustham* 1590–1629——Witness knows a man of the name of Phinn very well; evidence in detail showing that he was dismissed from the employment of Mr. Jones for general misconduct, and not for the evidence he has given before this Committee, *Spooner* 1637–1670.

Price of Coals. Witness would say that the price of coal was not raised by the establishment of the office, *Barthorpe* 81——Opinion that the price of coal has not been affected by the Act having expired, *Charrington* 101. 114, 115.

Price of Labour. See *Cost of Whippers' Wages.*

Private Agents. The position in which the present office appears to be is, that it gets a very small share of the work, owing to private interest, *Coomber* 145–153——The wages got by the men employed by private parties are more than the wages obtained from the office, *Barber* 621, 622.

Public-house Gangs:

1. *Generally.*
2. *Evils resulting from the Public-house System.*
3. *Opinions that the old Public-house System is coming again into Operation.*
4. *Opinions that there is no such Danger.*
5. *Way in which the System should be put an end to.*

1. *Generally:*

The principal complaints arise from the publicans getting the work; they take it at a lower rate than the office, and the captains, from motives of relationship or influence, encourage them in preference to the office, *Barthorpe* 23–27——With regard to the two or three public-houses which carry on the business on any scale, the employment is too irregular to enable any statement of average wages to be made, *Forster* 359——Before the passing of the late Act, the ships were whipped by the same process as they now are; the gangs were generally supplied from the public-houses, *Barber* 631–634——Witness would say that out of 1,100 men, 400 are employed by publicans; witness was employed from the public before the Act of Parliament was passed; he now works through the office, *Sullivan* 756, 757. 764–767——The object of the Bill of 1843 was, if possible, to do what was necessary for securing the entire discontinuance of the public-house system, but to do nothing more, and to leave the trade as free as possible beyond that, *Right Hon. W. E. Gladstone* 1688, 1699. 1707——Witness would say that it would be better that the Legislature should allow the evil of the public-house system to exist, unless it grew to a very great height, rather than encounter the evils of interference, *ib.* 1699–1706.

2. *Evils resulting from the Public-house System:*

Witness would most decidedly prefer a gang of whippers engaged at the Coal Trade Office to a gang engaged through the medium of a public-house, *Coomber* 141–144——The one are a set of sober men, the other may not be so, *ib.* 144——If a sober man is employed at a public-house he will very soon be turned out, as it will not answer the purpose of the publican to keep him there, *ib.* 156——System pursued at the public-houses in getting men into debt in the first instance, *ib.* 265–268.

The system of the public-house was bad in every way; bad for the employer as well as the employed, *Barber* 635–637——The present system is very injurious to the coal-whippers so far as regards the public-houses, *ib.* 658–669——The supply of labour through publicans involves drunkenness and its concomitant evils, and witness believes that the present office offers the men the same opportunity of escaping those evils as the old office did, *Chaytor* 880–890——The system of engaging men at public-houses is decidedly bad, and universally condemned; it should be made penal for the publicans to engage the men; witness would object to the shipowners being also placed in the same position, *Champneys* 961–966. 968.

Report, 1857—*continued.*

PUBLIC-HOUSE GANGS—continued.

3. *Opinions that the old Public-house System is coming again into Operation:*

There is every appearance of the old evils of the public-house system coming again into operation, *Barthorpe* 92——There are a very considerable number of the men employed from the public-houses, but witness has no means of stating the proportion so employed, *Coomber* 156-161——Number of cases in which public-house gangs have been employed which have come under witness's notice since the expiration of the Act, *ib.* 176-179——Witness is of opinion that the amount of work done through the public-houses is on the increase, *ib.* 211-221.

Since the Act has ceased witness has known many instances of men being employed from public-houses, *Fryer* 299-302——The public-house system is in full operation now, except as regards the gangs from the new office, *Foley* 1211——Even the new office, by the change in the mode of paying the men, has a tendency to send them into the public-houses; way in which this arises, *ib.* 1211-1237——The number of public-houses supplying men has greatly increased since the expiration of the Act, *ib.* 1257-1267——The men fear that the present system has a downward tendency to go back to the old system, *ib.* 1317-1319.

4. *Opinions that there is no such Danger:*

Opinion that the furnishing of gangs by public-houses is not on the increase, *Forster* 396-403——The 700 men in the office have nothing to do with public-houses, *ib.* 433-435——The practice of engaging gangs at public-houses has increased lately, but not to any great extent, *Barber* 543——Witness does not think there is any great danger of the old system of things recurring, in which the publican will have the greatest command in the number of gangs, *ib.* 544-546——Witness does not think there is any danger of this system being again reverted to, *ib.* 638, 639.

The number of publicans finding men to discharge ships is not on the increase, *Chaytor* 806——Witness cannot imagine that there is any great danger of a recurrence of the evils which existed previously to the Act if the present office be continued, *ib.* 807——Further evidence showing that most of the ships discharged in the River are discharged by the office and very few by the publicans, *ib.* 901-917——There is no doubt that a great many of the outside men are paid at public-houses, but witness does not think that the number of these public-houses has increased since the expiration of the Act, *Chapman* 1533-1537.

5. *Way in which the System should be put an end to:*

Great advantage which would result to the office men if the public-house system were put an end to, *Coomber* 256-264——Witness would like to see any alteration which would totally prevent the men going to public-houses without creating a monopoly, *Barber* 666-668——It would, however, have been far better to have let well alone, as the Act worked universally well, *Champneys* 967——Any system by which wages were prohibited being paid at public-houses would be advantageous, *ib.* 971, 972——Way in which the Act, while it existed, preserved the men from the evil effects of being hired by publicans, *ib.* 979-983——Even under the operation of the Act, the Act was evaded, and many of the men were employed from public-houses, *Morton* 1386-1388——All the coalowners and persons connected with the office are most desirous that no transaction should pass through public-houses, *ib.* 1423-1431. 1442-1445. 1453-1471——Recommendation of the Committee that any shipowner, masters of vessels, or publican, or their agents, contracting or discharging their engagements with coalwhippers or paying wages to coalwhippers in a public-house shall incur a penalty of pounds for every case proved, *Rep. p.* iii.

See also *Basket-men. Coalowners. Competition. Efficiency of the Men. Employment. Gangs. Gas Companies. Truck System.*

R.

Regan, Mr. Particulars relative to a gang worked by a Mr. Regan, who was what is called a middleman; he calls himself an agent, and advertises to work them at 6*d.* per ton, *Fryer* 302 *et seq.*——Many of the captains refuse the office men, and employ either public-house or Mr. Regan's men, *ib.* 303, 304——This has been since the expiration of the Act; Mr. Regan would not have been allowed to work the colliers with these men under the Act, as they could not be considered his *bonâ fide* servants, *ib.* 305-310, 313-317——Regan could not get men to do it, as he merely picks up men along shore, and they are not equal to it, *Barber* 560, 561——The reason why he gets so much employment for his people is that he works for the shipowners under price, *ib.* 562-566——He carried on the same system under the late Act, and was often pulled up before the police court, *ib.* 567, 568.

Register. The old office was advantageous to the men from their names being on a register, and their knowing when they would be called upon, *Barthorpe* 71, 72——There is no register at the present office, the men go there and get themselves into a gang under the basket-men;

Register—continued.

basketmen; the gangmen take their turn, and no favouritism is shown, *Forster* 436–451——It was in order not to introduce unnecessary restrictions on the trade that it was made compulsory on the office to register and to form into gangs all the men that offered themselves, the object being not to limit the quantity of labour, *Right Hon W. E. Gladstone* 1689–1697.

S.

Screw Ships. There is paid more for unloading screw-ships than for sailing-vessels, as it is done by the strongest and best men, they having to work day and night, *Sullivan* 736–740. 746–755.

Seaborne Coal. Seaborne importation of coal, culm, and cinders, August 1856 to June 1857, *App. p.* 142.

Shipowners. Grounds on which witness forms the opinion that the shipowners, as a body, are not opposed to the renewal of the Act, *Barthorpe* 16–19——One cause of the evil existing in former days among the coalwhippers arose from the fact of the shipowner being the sole importer of the coals, *Barber* 654–657——Opinion that the great body of the shipownnrs are not bound by the agreement to employ no other men than those from the office, it is only the coalowners that are so bound, *Chaytor* 817–830.

Shipping. Opinion that the supply of shipping has decreased, *Barthorpe* 85——Number of ships whipped in the pool from the 1st August 1856 to 30th June 1857, *App. p.* 141.

Spooner, William. (Analysis of his Evidence.)—Coalwhipper, employed by Green and Jones, coalfactors and lightermen, 1633–1636——Knows a man of the name of Phinn very well; evidence in detail, showing that he was dismissed from the employment of Mr. Jones for general misconduct, and not for the evidence he has given before this Committee, 1637–1670.

Strikes. Before the passing of the Act strikes were of frequent occurrence, but witness never knew of one since, *Barthorpe* 63–68. 79, 80——There was one strike for a short time during the operation of the Act; the office was working at that time from 4½ *d.* to 9 *d.*; the men got their price, *Barber* 600–605——The men on two or three occasions voluntarily lowered their price, *ib.* 606–612——There was only one strike during the operation of the Act, *Foley* 1328.

Sullivan, John. (Analysis of his Evidence.)—Coalwhipper; working at Gold's Hills; works from the factor's office, 670–672——When employed earns 10 *s.* a week, 673, 674——Is as often without work as with it, 675, 676——The men get 7 *d.*, but they must not set the price themselves; they are not allowed to make any contracts, 677–680——Particulars in detail relative to a case in which witness once took a contract at 8 *d.*, and which the office attempted afterwards to reduce to 6 *d.*; witness afterwards got 7 *d.* by summoning the parties before the police magistrates, 680–690. 731–735. 741–745. 768–773.

During the time of the Act of Parliament witness's wages were 15 *s.*, 19 *s.*, and 1 *l.*; they are now but 10 *s.*; reason of this, 691–696——Before the Act expired the men were at liberty to refuse the job if they did not think it would pay; they cannot do so now, 697–700——There are often a large number of the gangs idle at a time, 701–708——The men now work for 6 *d.* a ton, it was formerly 7 *d.*; difference this makes in working a ship, 709–718——There are two pay days in the week, Wednesdays and Saturdays, 719–729——The gangs wait at the office, and are taken in regular turn, 730——More is paid for unloading screw-ships than for sailing-vessels, as it is done by the strongest and best men, they having to work day and night, 736–740. 746–755.

Some of the coalwhippers may earn on the average 13 *s.* 6 *d.* per week, but they do not do so generally, 746–749——Witness would say that out of 1,100 men 400 are employed by publicans; witness was employed from the public-houses before the Act of Parliament was passed; he now works through the office, 756, 757. 764–767——There is a great deal less work now than there used to be; this is owing to the ships being scattered about so, 758, 759——Opinion that the introduction of machinery does not make much difference, 760–763.

Supply of Labour. The establishment of the office was of great advantage to the shipowners, from the fact of there always being an instant supply of men when a glut of ships arrived, *Barthorpe* 70——Witness never heard of any difficulty in getting men to unload a ship, *Coomber* 239–244——Great amount of surplus labour at the present time; various causes of this, *ib.* 244, *et seq.*——The introduction of machinery is one cause,

Report, 1857—*continued.*

Supply of Labour—continued.

Coomber 245——The publicans and private individuals also draw work from the office, *ib.* 245–247.

The present office has always been able to afford gangs for vessels requiring them, and at the present time they are all engaged and are paid full wages, *Forster* 350. 360–363——At the commencement of the new office there was occasionally a demand for more men than could be supplied; way in which this difficulty has since been met, *Barber* 533–536——Reason why a surplus of labour is always obliged to be kept at the office; the employment is necessarily very irregular, *Chaytor* 804, 805. 891–894.

Surplus Labour. See *Employment.*

T.

Trade, The. Reasons why witness supposes parties connected with the trade were opposed to the operation of the Act, *Coomber* 269–276.

Truck System. Evidence showing that at the period of the introduction of the Coalwhippers Act, the greatest possible necessity for some change existed; great evils of the truck system which was prevalent at that period, *Barthorpe* 5, 6——The change made by the introduction of the Act gave the greatest satisfaction to the coalwhippers, *ib.* 7, 8——Grounds on which witness forms the opinion that the coal merchants, shipowners, and coalowners were afterwards favourable to the change, *ib.* 9——The private office has done some little good, but matters are fast approaching to the old system, *ib.* 10–15. 21, 22——Evidence showing that the men engaged by the publicans are compelled to take some of their wages out in drink, *ib.* 29, 30——The publicans get the men into their hands by letting them run up a score, and then they (the publicans) receive their wages, *ib.* 36–42——*See* also *Public House Gangs.*

Trustham, John. (Analysis of his Evidence.)—Foreman to Messrs. Green, Sons, & Jones, 1568——Mr. Jones is a coal merchant, and connected with the Chartered Gas Company as well, 1569, 1570——Up to Michaelmas 1856 the company worked under hydraulic power in Regent's Canal; since that period they have left the canal, and now draw the coal at Blackfriars Bridge, 1571. 1582, 1583——Way in which they engage their gangs; amount per ton paid the men; how far the wages may be said to be paid at the public-house, 1572–1575. 1583–1589——Witness would say that taking one week with another the gangs employed at the wharf earn 25 *s.* a week, 1576–1581——Circumstances under which a man of the name of Thomas Phinn was discharged from the service of Mr. Jones; he was discharged because he was considered to have given false evidence before this Committee, 1590–1629.

V.

Voluntary Office. Witness approves of the present office, as being for the good of all parties; any office rather than going to public-houses for the labour, *Coomber* 254, 255. 277, 278——Offer made by the coalowners, that if the Act were allowed to drop they would establish an office, at which those who required men should be able to engage them without resorting to public-houses, *Forster* 343. 347, 348——This agreement was committed to writing; copy thereof delivered in and read, *ib.* 349——When the agreement alluded to was made there was a distinct understanding on the part of the whole trade to support the proposed office, *ib.* 404–423——Witness believes that this understanding has been rigidly attended to with very few exceptions, and in all cases of deviation from it the parties have been written to, *ib.* 404–423.

Evidence showing that the men earn a larger average of wages under the present office than they did under the former office, and witness considers that the condition of the men will be generally improved, *Barber* 466, 467. 470–504——The men who are engaged through the office are protected from the exactions of the publicans, *ib.* 468, 469——There is no doubt that the present system works well, and witness would like to see the work of the office increase, *ib.* 537——From witness's experience he would state decidedly that the men are earning better wages and at a less cost to the coalowner and shipowner in the North than they did under the whole system, *ib.* 538–542——Evidence showing that the present office is self supporting; the only deduction from the men is a farthing in the shilling; this was the same in the old office, which was not found sufficient, *ib.* 586–596——Opinion that the trade generally has adhered to the agreement which was come to at the period of the establishment of the new office, *ib.* 640–648. 653.

Evidence showing that the committee of the voluntary Coalwhippers' Office have, to the fullest extent, carried out the engagement which they entered into with Parliament last session, to find employment and accommodation for the men, *Chaytor* 895. 898–900.

Witness

Report, 1857—*continued.*

Voluntary Office—continued.

Witness thought he would stick to the model office till he found it would not act, and he found his work was going away and he was forced to follow it; the best of the work was going to public-houses and elsewhere, *Finn* 1026–1028.

The first thing done at the model office which caused great trouble to the men was, that they cut the body into two, *ib.* 1044——One-half stopped at the office and the others were cut adrift; this was done to make good wages for a few, *ib.* 1044, 1045. 1053–1055——The committee of management have always been perfectly satisfied with the conduct of Mr. Barber, the manager of the office; he was registrar of the Parliamentary office, *Forster* 1121–1127——Evidence relative to the agreement entered into by the coalowners and shipowners of the north with the Government to establish a voluntary office, *Right Hon. W. E. Gladstone* 1682–1687.

See also *Coal Merchants.* *Coalowners.* *Coal Trade.* *Condition of the Men.* *Efficiency of the Men.* *Employment.* *Gangs.* *Organisation of the Office.* *Wages.*

W.

Wages. Both the men engaged from the publicans and those engaged from the office get very bad pay now, *Barthorpe* 28——During the ten years preceding the passing of the Act the wages were 11 *d.*, 9 *d.*, and 8 *d.* per ton; this was previously to the establishment of the office, *ib.* 43–49. 52, 53——During the existence of the office the wages were 9 *d.*, 8 *d.*, and 7 *d.* per ton, *ib.* 50. 52, 53——Since the cessation of the office the men are receiving about 7 *d.* per ton, *ib.* 51——Many of the men are working at 6 *d.* per ton, which is starvation price; men from the office are working as cheaply as this, *Coomber* 248–253.

Comparison between the wages earned by the men at the present office and the wages earned by them at the former office; at the present office the average is about 17 *s.* a week, and at the Parliamentary office it was about 13 *s.* 7 *d.*, *Forster* 352–356. 364–379. 388–391. 452, 453. 456–463——As regards the wages of those employed from other sources than the office, witness believes that the office is slightly undersold, to the extent perhaps of a halfpenny a ton, *ib.* 357——The publicans charge 6½ *d.* a ton, and Mr. Regan and other independent employers of labour charge the same, *ib.*——At the office the charge is 7 *d.* a ton, *ib.* 358.

Witness attributes the fact of the men having better wages under the new office than under the old to the great reduction in the number of gangs, and to the inefficient hands having been got rid of, *Barber* 524–533——Witness when employed earns 10 *s.* a week, *Sullivan* 673, 674—— Is as often without work as with it, *ib.* 675, 676——The men get 7 *d.*, but they must not set the price themselves; they are not allowed to make any contracts, *ib.* 677–680——During the time of the Act of Parliament witness's wages were 15 *s.*, 19 *s.*, and 1 *l.*; they are now but 10 *s.*; causes of this reduction, *ib.* 691–696——The men now work for 6 *d.* a ton; it was formerly 7 *d.*; difference this makes in working a ship, *ib.* 709–718——Some of the coalwhippers may, on the average, earn 13 *s.* 6 *d.* per week; but they do not do so generally, *ib.* 746–749.

Opinion that the rate of wages is likely to continue at about the present level if labour be not interfered with, *Chaytor* 864, 865—Reasons which have led to the present rate of wages being established, *ib.* 867–870——If the men could be constantly employed at 6 *d.* per ton they would earn very large wages, *ib.* 873, 874——The rate of wages was lowered during the existence of the old office, *ib.* 876, 877.

In many instances the men do not now earn more than 10 *s.* a week, and sometimes less, whereas under the old system they earned from 16 *s.* to 25 *s.* a week, *Champneys* 931–957——From the inquiries witness has made he attributes this to the fact of the publicans and other agents having now got at least one-third of the trade, *ib.* 958. 969, 970——Under the old office the men get their wages regularly; this is not the case under the model office, *Finn* 1042, 1043——Evidence as to the data on which the statement delivered in to the Committee relative to the average wages earned by the coalwhippers in the office was drawn up, *Barber* 1172–1191.

For the first five months of the new office witness's average wages were 10 *s.* 9 *d.*, *Foley* 1242–1245——During the operation of the Act they averaged from 14 *s.* to 16 *s.* a week, *ib.* 1242–1245——Evidence showing the false data upon which the return delivered to the Commit ee stating the wages of the men to be 18 *s.* 4 *d.* per week on an average, has been drawn up, 1253–1256——Opinion that the present wages earned by the coalwhippers, if not high, are at any rate very fair, *Morton* 1349–1352——Witness has no doubt that the old office was the means of keeping up wages, *ib.* 1375–1385——From the information witness has been able to get he would say that the present average rate of wages in the office is from 17 *s.* to 18 *s.* a week, *ib.* 1432–1441——The average earnings of the men actually employed are about 17 *s.* or 18 *s.* a week, *Chapman* 1519–1523

Report, 1857—*continued.*

Wages—continued.

——If divided among the whole of the men it would then be about 12 *s.* or 13 *s.* a week, *Chapman* 1524-1532.

See also *Basketmen. Checkering. Competition. Deductions from Wages. Payment of the Men. Public House Gangs. Strikes. Truck System. Voluntary Office.*

Welsh Coalowners. The Welsh coalowners principally discharge by their own crews, *Chaytor* 856.

Withdrawal of the Bill. Evidence relative to the re-introduction of the Bill by Mr. Labouchere in the last Session of Parliament, and circumstances under which witness was induced to consent to the withdrawal of the Bill, *Right Hon. W. E. Gladstone* 1677-1682.

REPORT

FROM THE

SELECT COMMITTEE

ON

DUCHY OF LANCASTER

(BERTOLACCI'S PETITION);

WITH THE

PROCEEDINGS OF THE COMMITTEE,

MINUTES OF EVIDENCE,

APPENDIX AND INDEX.

Ordered, by The House of Commons, *to be Printed,*
29 *July* 1857.

218—Sess. 2.

Jovis, 4° die Junii, 1857.

Ordered, That a Select Committee be appointed to inquire into the statements set forth in a Petition from Mr. Francis Robert Bertolacci, praying for an inquiry into the proceedings of certain functionaries of the Duchy of Lancaster, in preventing him from exercising the rights, powers, and privileges of the office of Auditor of the Duchy, and in superseding him by a near connexion of the Receiver-general to audit that officer's accounts; and that such Committee do consist of Five Members, to be appointed by the General Committee of Elections.

Veneris, 12° die Junii, 1857.

Mr. *Walpole* reported from the General Committee of Elections, that, in compliance with such instructions, they had appointed the following to be the Members of the said Committee:—

Thomas H. S. Sotheron Estcourt.
Viscount Goderich.
Thomas William Bramston.
Lord Harry Vane.
James Hans Hamilton.

Ordered, That the Petition of Mr. Bertolacci be referred to the Committee.

Jovis, 18° die Junii, 1857.

Ordered, That the Committee have power to send for Persons, Papers, and Records.

Ordered, That Mr. Coningham be appointed to serve on the said Select Committee to examine Witnesses, but without the power of voting.

Mercurii, 29° die Julii, 1857.

Ordered, That the Committee have power to Report their Observations, together with the Minutes of Evidence taken before them, to The House.

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REPORT.

THE SELECT COMMITTEE appointed to inquire into the Statements set forth in a PETITION from Mr. *Francis Robert Bertolacci*, praying for an Inquiry into the Proceedings of certain Functionaries of the DUCHY of LANCASTER in preventing him from exercising the Rights, Powers, and Privileges of the Office of Auditor of the Duchy, and in superseding him by a near Connexion of the Receiver-General to audit that Officer's Accounts; and who were empowered to Report their Observations, together with the MINUTES OF EVIDENCE taken before them, to the House;——HAVE considered the Matter to them referred, and agreed to the following REPORT:—

THE Petitioner, Francis Robert Bertolacci, is a British born subject. His father held several public appointments; and he has been himself in the public service 21 years.

His conduct as secretary of the Irish Reproductive Loan Fund earned for him the approbation of the Treasury, and when Mr. Strutt, then Chancellor of the Duchy of Lancaster, applied to Mr. Gladstone, the Chancellor of the Exchequer, to recommend an efficient person for the vacant office of auditor of the Duchy, Mr. Gladstone answered that he could recommend a person well fitted for the office, and Mr. Bertolacci received accordingly the appointment.

In August 1855, he was displaced by the Earl of Harrowby, who had become Chancellor of the Duchy; and conceiving himself to have been unjustly treated, and the terms of his patent infringed, he resolved to bring his case under the notice of Parliament; a delay of a twelvemonth occurred from some hesitation on the part of Members to whom he applied, and his Petition was consequently not presented until the present Session.

The Petition is drawn up in so inconvenient a form, the same occurrences being mentioned frequently in different paragraphs, and the order of the narrative being interrupted by inferences and repetitions, that Your Committee think it will conduce to a more clear understanding of the case if they set down in a distinct shape the substance of the principal allegations contained in it.

The Petitioner alleges— Paragraphs in Petition.

1. That the Court and Council of the Duchy of Lancaster are the same body; that the Auditor is by virtue of his patent a member of that body, and that the Chancellor of the Duchy is precluded by statute from exercising any absolute power over the Council or property of the Duchy; but must act jointly with the Council. 1. 9.

2. That the Petitioner was appointed to the office of Auditor on the resignation of Mr. Lockhart in May 1854, in consequence of public services and testimonials of efficiency by Mr. Strutt, the Chancellor, who informed him that the office was no longer to be considered a sinecure, and desired him to look after the arrears of rent, telling him also that he would not be required to attend every meeting of the Council. 10, 11. 13. 14. 20.

3. That his examination into the accounts was obstructed by the Clerk of the Council in criticising his remarks upon the omission of witnesses to vouchers; and in refusing him free access to the Minutes of the Council until the 20th November 1854, when leave was given by the Chancellor; by the Earl Granville, who succeeded Mr. Strutt, in persisting in refusing to him a seat and voice in the Council; by the deputy of the Receiver-general in neglecting 17. 16. 51. 43. 46.

62. to furnish him with a debtor and creditor account; by Messrs. Coutts, in declining to allow him to inspect the Receiver-general's pass-book; and by the Earl of Harrowby, in compelling him to return the accounts of 1853 before he should be allowed to have in his possession those of 1854; also by withholding leave of absence which had been promised to him by the Clerk of the Ordnance on his appointment, so that he had not command of the time necessary for his work of audit.

34. 40. 4. That he was required to sign grants and leases of Duchy property upon a Minute of the Chancellor, without having the means of ascertaining whether 36. the best price had been obtained. That the leases were carelessly drawn, and 39. that fresh forms of leases were prepared in consequence of his having called the attention of the Chancellor to this circumstance.

5. That it was not until he attempted to inquire into past transactions con- 49. nected with the Duchy property that the Minute made on his appointment was interpreted as totally excluding him from the Council.

50. 6. That he was required to sign bills constituting the Clerk of the Council sole trustee for the sale and distribution of escheated property.

52. 7. That he has reason to believe that a lawsuit 15 years ago, which cost 10,000*l.*, might have been stopped or prevented if the Chancellor of the Duchy and the First Lord of the Treasury would have agreed to settle the dispute by adjustment.

53. 8. That his signature to Bills for grants in fee seemed to him to imply not only 54, 55. that they had been prepared in accordance with the Minutes of the Council, but that he signed them as an advising member of the Council, which was no longer 56. the truth, since he was excluded from a seat therein; he, therefore, added to his signature explanatory words to limit his concurrence; whereupon it was decided by the Earl of Harrowby, then Chancellor, that the Clerk of the Council should in future sign the bill, and the Auditor should only sign the certi- 57. ficate at the foot of it; and that after this decision he was required to sign bills for the sale of land to the Duke of Newcastle, who was one of the Council of the Duchy.

59. 9. That in six particulars a breach has been made in this ancient trust:

1. By the Surveyor's Report not being submitted to the Auditor.
2. By the omission of the "Auditor's Particular" preparatory to the sale of property.
3. By the Clerk of the Council being ordered to sign bills for the sale of Duchy property without the "Auditor's Particular."
4. By the course adopted to procure the Auditor's corroboration to facts he was deprived of the means of testing, and to obtain his signature to the certificates to the bills, as before stated.
5. By the exclusion of the Auditor and others from the Council.
6. By the introduction into the Council of persons not holding office in the Duchy.

62 to 65. 10. That he could not obtain from the Deputy of the Receiver-general a debtor and creditor account, nor an account of the items of which the balance of the year 1852 was composed; nor any date of balance of one year corresponding with the balance of another year; nor any journal of receipts and payments. That the bankers' pass-book was of no value as a test, because net balances only were paid in. That he could not obtain the accounts 9. for the year ending September 1854, because he (the Petitioner) refused to give up those of 1853. That the Receiver-general, General Fox, ordered him, in uncourteous, offensive and overbearing language, to give up the previous year's accounts before he should be furnished with the accounts of 1854; that 102. the Clerk of the Council, by order of the Chancellor, sent to him a similar order.

66. 11. That he was told by the Deputy Receiver-general that the reason why 72. the accounts of 1852 had been kept open was to allow time to Earl Granville to pay arrears of his rents; that he subsequently discovered this statement was not without foundation.

73, 74. 12. That upon his appointment an arrangement was made between Mr. Strutt and Mr. Monsell, that he should have leave from the Ordnance Office for such

such time as would be requisite to enable him to do the work of his audit at the Duchy Office. That Earl Granville refused to apply for this leave; that he was invited by Earl Granville to vacate the office of Auditor, on the ground that he was unable to execute the duties both of that office and also of a clerk in the Ordnance; that he was obliged to attend at the Duchy Office after official hours, in order to work at the accounts, and to keep other officers there for the same purpose; that he devoted to this object the few days leave in the twelvemonth granted to clerks at the Ordnance Office; that this leave was curtailed at that very time; that he was also, at the same time, transferred to a new branch in the Ordnance, which added to his difficulties, and was replaced in his former position at such a date as to confirm his suspicions that this was intended to be a further impediment. That he wished to expedite the audit by obtaining the aid of a deputy, and introduced Mr. Coleman for the purpose, but was refused permission to employ him, although the words of his patent seemed, in his opinion, to give him that privilege. 78. 202. 160 to 170.

13. That he believes the Earl of Harrowby had a predetermined intention to supersede him, in order to give the appointment to Mr. Hawker, who is a nephew of General Fox, over whose accounts the Auditor is the sole check; and that the Earl of Harrowby, in order to accomplish this purpose, persisted in denying that the office was given to the Petitioner as a reward for public services. 196. 199. 215.

14. That he has more than once been attacked in certain papers, which he believes to have been influenced by some powerful agency. 77-79. 189.

15. That since he was appointed Auditor, the payments from the Duchy to the Privy Purse have increased from 15,000 *l.* to 20,000 *l.* per annum. 216.

16. That whereas the salaries of the Receiver-general and Clerk of the Council were formerly paid partly from the Duchy, partly from a fee fund, so that the Returns to Parliament did not show the real amounts, the whole is now correctly stated, and that he, the Petitioner, called the attention of the Chancellor to the propriety of this improvement; also that, in one year's Return, namely, that presented in 1856, the word Accountant is substituted for the word Receiver-general; by which means it was concealed from the House who the party intended really was. 217. 218.

17. That although the amounts to September 1854 were closed on the 22d February 1855, and were then ready to be audited, they were by Lord Granville's order withheld for the petitioner.

18. That Lord Harrowby hurried through Parliament, in 1855, an Act, the real object of which was to legalise the Council as then constituted of persons appointed by the Chancellor, and excluding the Auditor; and that this Act gave no extra powers of sale, beyond those conferred by previous Acts of Parliament.

Upon the first meeting of Your Committee, they resolved that it was desirable, for the purpose of investigation into the truth of these allegations, that there should be on the Committee some Member possessing the confidence of the Petitioner to conduct the examination; and they accordingly applied to Mr. Coningham, the Member who had presented the Petition; and with his concurrence the Chairman moved, in accordance with the precedent of the Committee of Henry Stonor, in 1853, that Mr. Coningham be added to the Committee for the purpose of examining Witnesses, but without a voice.

Your Committee proposed to the present Chancellor of the Duchy that a Member should, in like manner, be added on the part of the officers of the Duchy; which proposal he declined, saying they were content to leave the case in the hands of the Committee.

Your Committee proceeded to the examination of Mr. Bertolacci, which was continued during seven sittings. They also examined Mr. Ellis, the Attorney-general; Mr. Danvers, the Clerk of the Council; Mr. Gooch, the Deputy of the Receiver-general; Mr. Hardy, Clerk of the Records; Mr. James, Vice-chancellor of the Duchy Palatine; Captain Evans, who was employed to value some property of the Duchy; General Fox, the Receiver-general; the Lord Belper; the Earl of Harrowby; and the Earl Granville, successive Chancellors; the Duke of Newcastle; and the Right Honourable William Monsell, a Member of the House.

The result of this inquiry Your Committee now present, in what appears to them the most intelligible form, namely, by making their observations upon each head of the Petition, in the order in which they are given above, and with the same numbers attached.

1. It appears, by the evidence of the law officers of the Duchy, that they were consulted by Lord Belper before he thought of appointing Mr. Bertolacci, and they gave an opinion that the Auditor had no right, by virtue of his office, to a seat and voice at the Council. They were afterwards consulted by Lord Granville and Lord Harrowby, on the occasion of Mr. Bertolacci's remonstrances, and adhered to the same opinion, which is, in substance, that the absolute power rests in the Chancellor; that he is not obliged to consult his Council on any matter, and that a Minute passed by him alone is equivalent in authority to a Minute passed by the Chancellor and Council. They further stated, that certain persons were added to the Council, by advice of Lord Campbell, but that they have no independent power, and are consulted only by the Chancellor when he desires their advice. This opinion is confirmed by the researches of the Clerk of Records.

Lord Belper also told your Committee that he stated to Mr. Bertolacci, when he offered to him the appointment, that he was not to be a Member of the Council, and that he accepted it on that understanding.

Your Committee therefore conclude that the idea which was dominant in the mind of Mr. Bertolacci throughout the whole period when he was Auditor, which he produced over and over again in letters and interviews with the
904. officers and with successive Chancellors, was an erroneous opinion; he was distinctly informed, at the time of his appointment, that he would not be a member
1244. of the Council; and a Minute was made to that effect.

2. Lord Belper informed Your Committee that in selecting Mr. Bertolacci, his only motive was to secure a competent Auditor, namely, a person versed in auditing accounts, and that he was not influenced by reference to his former services; but as Lord Belper accepted in this case the recommendation of Mr. Gladstone, who certainly had present to his mind the services rendered by Mr. Bertolacci in his employment at the Irish Loan Fund, Mr. Bertolacci had grounds for concluding that the appointment was intended as a reward, though it never was so stated positively to him.

3. When Mr. Bertolacci was appointed, there was an arrear of one year in the auditing of the accounts, owing to the illness of Mr. Lockhart. Instead of applying himself to clear off this arrear, he seems to have turned his mind to the difficulty which he felt in signing bills for grants in fee, without possessing the knowledge of the circumstances which he would have had, if he had been a member of the Council. He had access from the first to those Minutes and Documents which related to the bills before him; but he required to be allowed free and unlimited power to look over the whole body of the Minutes; and time was spent in correspondence with the Chancellor and the Clerk of the Council on this head. It seems to Your Committee reasonable, that the Clerk of the Council should have refused to put the Minute Book in his hands, until an order to do so was obtained in November from the superior authority.

When this point about the Minutes was settled, he seems to have pressed further his remonstrance upon the Chancellor on the subject of exclusion from the Council; Lord Granville having set aside that remonstrance, desired him to draw up a code of instructions for defining the duties of his office, which he declined to do, and Lord Granville drew them up himself, after consulting the Audit-office.

Still the audit does not seem to have made progress, and when the time approached for laying a return of the annual accounts before Parliament, neither the audit in arrear of 1853, nor that of the year terminating in September 1854, was ready. Mr. Bertolacci declined to proceed with the audit of the year 1853, until the account of 1854 should be laid before him. The Receiver-general refused to part with the vouchers and papers of 1854, until those of 1853 had been audited and returned to the office; and in this he was supported by Lord Harrowby, who had meanwhile become Chancellor. Your Committee think the Receiver-general was justified in retaining the vouchers of one year until those of the preceding year were returned, and that Lord Harrowby had reason by that time to doubt whether he would ever obtain

an

an audit from Mr. Bertolacci; in fact, no audit ever was completed by him, though he did not finally quit the office until August 1855.

Mr. Bertolacci seems to Your Committee to have made a mistake in applying to Messrs. Coutts for the pass-book of the Receiver-general without that gentleman's authority; and he also seems to have drawn inferences from some of the entries in that book which he might have found out to be incorrect, if he had proceeded in a regular way to ask for an explanation from the Deputy.

In regard to Mr. Bertolacci's complaint, that he was ill treated in regard to leave of absence from the Ordnance, your Committee are of opinion that the two offices of Clerk in the Ordnance and Auditor of the Duchy of Lancaster were not compatible; and that Mr. Monsell properly objected to the arrangement from the first. The curtailment of leave seems to have been caused solely by the pressure of business owing to the war; and the transference from one branch to another had no such object as Mr. Bertolacci suspects.

4. Your Committee are of opinion that Mr. Bertolacci misunderstood the nature of his duties; that it is the business of the Surveyor, not of the Auditor, to ascertain the value of property to be sold or leased. They think Mr. Bertolacci acted properly in representing that the leases were drawn up in a careless form; and the amendments adopted in this respect seem to be attributable partly to his representation.

5. This is incorrect, the Minute made on the appointment of Mr. Bertolacci shows that it was at no time intended that he should be a member of the Council.

6. This paragraph of the Petition implies censure on the Clerk of the Council. To Your Committee it appears to be the most obvious and easy way of securing to the parties interested a fair distribution of the escheated property, which the Crown returned to them, to appoint one trustee to make that distribution. It was not in his power, if he had even been so minded, to divert or misappropriate any portion of the property.

7. Upon referring to the original accounts, this appears to be wholly incorrect; the lawsuit could not have been settled between the two ministers, unless one of them had failed in his duty, by giving up a right of the Crown which was in dispute, and the costs of the suit were only 534*l.*, after deducting costs paid by Defendants, instead of 10,000 *l.*

8. The case of the sale to the Duke of Newcastle was shortly this: the Duke held under the Duchy by an old lease for 31 years, of which 18 were unexpired, certain lands scattered over the county of Nottingham, the total quantity of which was 170 acres, the reserved rents, 134 *l.* 2 *s.* 3 *d.*, and the actual rent received by the lessee, 166 *l.* 13 *s.* 8 *d.*; leaving a net balance of 32 *l.* 11 *s.* 5 *d.* to pay all outgoings. The Duke applied, in 1852, to the then Chancellor, Mr. Christopher, to purchase the fee. Being desired to make an offer, he directed his agent to offer the full value, which was estimated by that agent at 4,219 *l.* 6 *s.* 6 *d.*

There seems to Your Committee nothing in this transaction prejudicial to the interest of the Crown; on the contrary, the price seems to them very high, and the mode of dealing adopted by the Duke extremely scrupulous.

The circumstance that the Duke had been placed some years before on the list of non-official members of the Council did not in any way affect the terms of the sale.

9. As to the six particulars here mentioned, Your Committee find, that—

1. Is answered before, in No. 1.
2. Relates to an alteration made in 1844.
3. The same.
4. Is answered in No. 4.
5. Is answered before, in No. 1.
6. Relates to an order made by Lord Campbell some years ago, which seems to Your Committee to have been a useful provision, in order to supply a body of permanent counsellors, in case of any grave decision.

10. Your Committee are of opinion that no document was refused to Mr. Bertolacci necessary to enable him to complete his audit, if he would have set about

it in the usual manner; but he having in his mind a perfectly different notion of his duties from that which was held by the officers of the Duchy, and requiring from them documents differing in kind from those which they were accustomed to produce, a continual misunderstanding was kept up, and no progress was made. The Receiver-general was irritated at the inconvenience to which his Deputy was exposed. The Deputy was probably out of humour at being kept at the desk after the official hours were over; and the Chancellor was bound to take some steps to bring this state of things to an end.

11. Mr. Gooch, the Deputy of the Receiver-general, denies that he ever made such a statement as is here represented to Mr. Bertolacci, in reference to the accounts of 1852, but he admits that he used such words in regard to the accounts of 1853.

The matter relating to the arrears of the Earl Granville's estate, held under the Duchy, is the following:

The late Lord Granville held a considerable estate by lease under the Duchy. When the present Earl succeeded, there was an annual loss instead of a profit, and the question arose whether he should abandon the lease or incur a large expenditure, he determined to adopt the latter course. The money thus expended was borrowed to the amount of about 150,000*l.* The improvements to the Duchy property were of a permanent character. They have also largely increased the immediate receipts.

The successive Chancellors and Members of the Council of the Duchy have acted in this case as every landlord would in the case of an improving tenant. They have allowed, on account of the immediate difficulties produced by this large and beneficial expenditure, time for the payment of arrears.

Mr. Bertolacci was merely made acquainted with the fact of the arrears, and perhaps thought there was something wrong in the transactions of which he had an imperfect knowledge. These arrears are stated to have been at no time more than a year or 15 months' amount; they are at present about half a year's rent, namely, 2,800*l.* in a rental of 5,600*l.*

Lord Granville stated to Your Committee the circumstances which passed between himself and Lord Aberdeen on the occasion of his appointment to the office of Chancellor; from which it appears that he represented to Lord Aberdeen one practical difficulty, namely, that he was himself a principal tenant of the Duchy; adding, that in order to obviate this, he resolved to have nothing to do with any business connected with his own property; and a Minute was entered to that effect in the Minute Book at the time, and was shown to Your Committee; and as it was found that the Council could not act without the sanction of the Chancellor, the Queen's warrant was obtained for the appointment of a Pro-chancellor, who presided in all cases where Lord Granville was personally interested.

12. Your Committee have already expressed their opinion on the subject of Mr. Bertolacci holding two offices, and of the consequent want of spare time to perform the duties of his audit as well as his work in the Ordnance Office, and they are of opinion that the employment of Mr. Coleman as a Deputy, without the previous sanction of the Chancellor, was not a correct mode of supplying the defect, as it was contrary to precedent to introduce a Deputy Auditor except in cases of illness of the principal.

13. Lord Harrowby informed Your Committee that until after he had appointed Mr. Hawker, he had no idea that Mr. Hawker was a connexion of General Fox; that he (Lord Harrowby) applied to the Audit Office to recommend a good Accountant, and that Mr. Hawker was selected by the Audit Office as the most competent person in their department for the purpose; Lord Harrowby had reason for maintaining that the office of Auditor was not given to Mr. Bertolacci as a reward, because the evidence of Lord Belper, who made the appointment, was distinctly to that effect.

14. Upon this point in the Petition, no evidence was offered to the Committee.

15. The cause for this increase appears to Your Committee to be chiefly the improved rental from Lord Granville's estate: they have had no evidence to show in what manner it can be attributed to the agency of Mr. Bertolacci.

16. This

16. This is true; and the present practice is preferable to the former, and Mr. Bertolacci deserves credit for bringing the subject under notice of the Chancellor. The substitution of the word Accountant for that of Receiver-general in one return presented to Parliament in 1856 seems to have been merely a clerical error.

17. Although it is true that Mr. Gooch described the accounts to September 1854, as having been closed on the 22d February 1855, he did not mean to imply by that impression that they were ready for audit, but merely that a line had been drawn across them to show that no payments or receipts subsequent to that date were to be included in the account: and, in fact, the accounts in question were not ready for audit in February 1855, owing to Mr. Bertolacci's refusal to balance up or to audit the account to September 1853.

18. This statement is wholly without foundation. In the first place, the Act in question could in no way legalise the Council, as then constituted, if it were not legal before, there being no words whatever to that effect in any part of the Act; and, in the second place, very considerable and important powers which appear to have been much needed, were, as is shown by the evidence of the Attorney-general, conferred by this Act, in respect to the sale of lands belonging to the Duchy. Your Committee consider this to be one of the many proofs given by Mr. Bertolacci of a suspicious disposition. They think it right to add, that it is very probably this proneness to suspicion was increased by the nature of the business in which he had been lately engaged; and that he dealt with the officers of the Duchy with the same sort of jealousy which he had found to be necessary in detecting frauds in his previous employment.

Your Committee sum up the result of their inquiry, with reference to the principal points, thus:

That Mr. Bertolacci had grounds for believing that the office of Auditor was given to him as a reward for public services; and that though the notion which he took up of his duties as Auditor of the Duchy were such that it became indispensable to remove him, since no audit could ever be obtained from him, yet the whole blame of this failure does not rest on Mr. Bertolacci alone, but is partly to be attributed to the want of a clear definition at the outset of his duties in a position differing from that of his predecessors, who had a seat at the Council, and to an incomplete arrangement with the heads of the Ordnance on the subject of his leave of absence.

That the idea which Mr. Bertolacci entertained of his functions as Auditor, and of his rights and privileges, was throughout the cause of the difficulties which he experienced, and appears to Your Committee to have been erroneous. Your Committee think that as Mr. Bertolacci was plainly told by Lord Belper on his appointment that he could not have a seat at the Council, it was his business to have proceeded with the ordinary duty of audit, as if that question were settled.

It does not appear to Your Committee that Mr. Bertolacci was at any time without the means of perfecting the audit of the year ended September 1853, which was in arrear when he was appointed; or of that which ended in September 1854; and they have not received from Mr. Bertolacci, or any other witness, any sufficient reason why this audit was not completed.

That the instances, mentioned in the Petition, of incivility from Mr. Gooch, of overbearing letters from General Fox, of evasive replies from Lord Harrowby, and generally of want of courtesy from the officers of the Duchy, have an exaggerated importance given to them in the Petition; and Your Committee do not wonder that some discontent should be caused by the conduct and correspondence of Mr. Bertolacci, together with his delay in his audit, and the trouble which he gave to others in searching for documents, and in keeping them after office hours.

That if any imputation was intended to be raised by the Petition on the conduct of the Duke of Newcastle, it is wholly unfounded; that the Duke seems to have acted in dealing with the Duchy in a more scrupulous manner than if he had no connexion with the Council, and that he seems to have made on that account a less favourable bargain.

That no other course was pursued in regard to Lord Granville because he was Chancellor, than would have been followed in the case of any other individual tenant of the Duchy who expended money in permanent improvements.

That some improvement has already been made in the mode of preparing the accounts of the Duchy for Parliament; and that Your Committee think it would be desirable that a common form should be devised for making up the Returns of the Duchy of Lancaster and the Duchy of Cornwall.

That the case of Mr. Bertolacci, as developed by evidence taken before Your Committee, does not appear to them to require the interference of the House.

In conclusion, Your Committee are of opinion that the presentation of this Petition should not prejudice the present position or future prospects of Mr. Bertolacci, still less ought it to derogate from former claims; for Your Committee are decidedly of opinion that throughout, even when he was most clearly in error, Mr. Bertolacci acted *bonâ fide* according to the sincere conviction, which was deeply seated in his mind, that in his person the privileges of the office of Auditor of the Duchy of Lancaster had been infringed.

29 *July* 1857.

PROCEEDINGS OF THE COMMITTEE.

Martis, 16° *die Junii*, 1857.

MEMBERS PRESENT:

Lord Harry Vane.	Mr. J. Hans Hamilton.
Mr. Bramston.	Mr. Sotheron Estcourt.
Viscount Goderich.	

Mr. Sotheron Estcourt was called to the Chair.

The Committee deliberated as to their course of proceeding.

Mr. *F. R. Bertolacci*, examined.

[Adjourned to Friday next, at Twelve o'clock.

Veneris, 19° *die Junii*, 1857.

MEMBERS PRESENT:

Mr. Sotheron Estcourt in the Chair.

Viscount Goderich.	Lord Harry Vane.
Mr. Bramston.	Mr. J. Hans Hamilton.

Mr. *Coningham* added, by Order of the House, to examine Witnesses, but without the power of voting.

Mr. *F. R. Bertolacci*, examined.

[Adjourned to Monday next, at Twelve o'clock.

Lunæ, 22° *die Junii*, 1857.

MEMBERS PRESENT:

Mr. Sotheron Estcourt in the Chair.

Viscount Goderich.	Mr. J. Hans Hamilton.
Mr. Bramston.	
Lord Harry Vane.	Mr. Coningham.

Mr. *Bertolacci*, further examined.

Mr. *F. D. Danvers*, examined.

[Adjourned to To-morrow, at Twelve o'clock.

Martis, 23° *die Junii*, 1857.

MEMBERS PRESENT:

Mr. Sotheron Estcourt in the Chair.

Viscount Goderich.	Mr. J. H. Hamilton.
Mr. Bramston.	
Lord Harry Vane.	Mr. Coningham.

Mr. *Bertolacci*, further examined.

Adjourned to Friday next, at Twelve o'clock.

Veneris, 26° *die Junii*, 1857.

MEMBERS PRESENT:

Mr. SOTHERON ESTCOURT in the Chair.

Lord Goderich.	Lord H. Vane.
Mr. Hamilton.	
Mr. Bramston.	Mr. Coningham.

Committee deliberated.

[Adjourned to Monday, at Twelve o'clock.

Lunæ, 29° *die Junii*, 1857.

MEMBERS PRESENT:

Mr. SOTHERON ESTCOURT in the Chair.

Lord Goderich.	Lord H. Vane.
Mr. Hamilton.	
Mr. Bramston.	Mr. Coningham.

Mr. *F. R. Bertolacci*, examined.

[Adjourned to Thursday, at Twelve o'clock.

Jovis, 2° *die Julii*, 1857.

MEMBERS PRESENT:

Mr. SOTHERON ESTCOURT in the Chair.

Lord Goderich.	Lord H. Vane.
Mr. Hamilton.	
Mr. Bramston.	Mr. Coningham,

Mr. *F. R. Bertolacci*, examined.

[Adjourned to To-morrow, at Twelve o'clock.

Veneris, 3° *die Julii*, 1857.

MEMBERS PRESENT:

Mr. SOTHERON ESTCOURT in the Chair.

Lord Goderich.	Lord H. Vane.
Mr. Hamilton.	
Mr. Bramston.	Mr. Coningham.

Mr. *F. R. Bertolacci*, further examined.

[Adjourned to Monday, at Twelve o'clock.

Lunæ, 6° *die Julii*, 1857.

MEMBERS PRESENT:

Mr. SOTHERON ESTCOURT in the Chair.

Lord Harry Vane.	Mr. Hamilton.
Viscount Goderich.	
Mr. Bramston.	Mr. Coningham.

Mr. *F. R. Bertolacci*, further examined.

[Adjourned to Friday, at Twelve o'clock.

Veneris, 10° *die Julii*, 1857.

MEMBERS PRESENT:

Mr. SOTHERON ESTCOURT in the Chair.

Lord Goderich.	Mr. Hamilton.
Mr. Bramston.	
Lord H. Vane.	Mr. Coningham.

Mr. *Thomas Flower Ellis*, Mr. *Francis R. Bertolacci*, Mr. *William M. James*, Mr. *Frederick Davis Danvers*, and Captain *George Evans*, R.N., examined.

[Adjourned to Monday, at Twelve o'clock.

Lunæ, 13° *die Julii*, 1856.

MEMBERS PRESENT:

Mr. SOTHERON ESTCOURT in the Chair.

Viscount Goderich.	Mr. Bramston.
Mr. Hamilton.	
Lord H. Vane.	Mr. Coningham.

Mr. *F. D. Danvers*, examined.

[Adjourned to To-morrow, Tuesday, at Twelve o'clock.

Martis, 14° *die Julii*, 1857.

MEMBERS PRESENT:

Mr. SOTHERON ESTCOURT in the Chair.

Viscount Goderich.	Mr. Bramston.
Mr. Hamilton.	
Lord H. Vane.	Mr. Coningham.

Committee deliberated.

The Right Hon. *Lord Belper*, The Right Hon. Earl *Granville*, K.G., Mr. *Thomas Flower Ellis*, His Grace the Duke of *Newcastle*, The Right Hon. the Earl of *Harrowby*, and Lieut.-General *Charles Richard Fox*, examined.

[Adjourned to To-morrow, at One o'clock.

Mercurii, 15° *die Julii*, 1857.

MEMBERS PRESENT:

Mr. SOTHERON ESTCOURT in the Chair.

Viscount Goderich.	Mr. Bramston.
Mr. Hamilton.	
Lord H. Vane.	Mr. Coningham.

The Right Hon. *William Monsell*, a Member of the House; Mr. *F. D. Danvers*, and Mr. *Joseph Henry Gooch*, examined.

[Adjourned to Friday, at Twelve o'clock.

Veneris, 17° *die Julii*, 1857.

MEMBERS PRESENT:

Mr. Sotheron Estcourt in the Chair.

Viscount Goderich.	Mr. Bramston.
Mr. Hamilton.	
Lord H. Vane.	Mr. Coningham.

Mr. *F. D. Danvers*, Mr. *William Hardy*, Mr. *Joseph H. Gooch*, and Mr. *Francis R. Bertolacci*, examined.

Committee deliberated.

[Adjourned to Monday week, at Twelve o'clock, to consider Report.

Lunæ, 27° *die Julii*, 1857.

MEMBERS PRESENT:

Mr. Sotheron Estcourt, in the Chair.

Viscount Goderich.	Mr. Bramston.
Mr. Hamilton.	
Lord H. Vane.	Mr. Coningham.

Committee deliberated.

Draft Report, proposed by the Chairman, read, considered, amended, and agreed to.

Resolved, That the Chairman move for power to Report Observations, and the Minutes of Evidence, to the House.

Ordered, to Report.

MINUTES OF EVIDENCE.

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MINUTES OF EVIDENCE.

Martis, 16° *die Junii*, 1857.

MEMBERS PRESENT.

Mr. Estcourt.	Lord Harry Vane.
Viscount Goderich.	Mr. James Hans Hamilton.
Mr. T. W. Bramston.	

THOMAS H. SOTHERON ESTCOURT, Esq., IN THE CHAIR.

Francis Robert Bertolacci, Esq., called in; and Examined.

F. R. Bertolacci, Esq.

16 June 1857.

1. *Chairman.*] WILL you be so good as to state what your profession or employment has been?—I have been a Clerk in the Ordnance Office, Secretary to the Irish Reproductive Loan Fund, after that the officer appointed to carry into effect the Act of Parliament for vesting that fund in Her Majesty, to be collected and expended for charitable purposes in Ireland, and lastly a Clerk in the War Department and Auditor of the Duchy of Lancaster.

2. How many years have you been in the public service?—Twenty-one years.

3. A petition was presented to the House of Commons, signed Francis Robert Bertolacci, by the honourable Member for Brighton. Is that your petition?—Yes.

Veneris, 19° *die Junii*, 1857.

MEMBERS PRESENT.

Mr. Bramston.	Viscount Goderich.
Mr. Coningham.	Mr. J. Hans Hamilton.
Mr. Sotheron Estcourt.	Lord Harry Vane.

T. H. S. SOTHERON ESTCOURT, Esq., IN THE CHAIR.

Francis Robert Bertolacci, Esq., called in; and Examined.

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1*. Mr. *Coningham.*] YOU were granted the office of Auditor of the Duchy of Lancaster by the Queen's letters patent, dated the 15th of May 1854?—Yes; and I wish in connexion with the present inquiry, to state that I should have appealed to the House of Commons before the time when this petition was presented, had it not been for some delay which I wish on the present occasion to state to this Committee. In the month of March 1855, Lord Harrowby was appointed Chancellor; upon my appealing to Lord Harrowby to obtain the production for me of the accounts of the receiver-general, his Lordship wrote me a letter to state that he had come to the resolution of putting somebody else in my place, I wrote to his Lordship, telling him that I had neither misconducted myself,

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myself, nor had I been charged with any misconduct in the duchy, and consequently that the rights, powers, and privileges of my patent had not been abrogated; his effort therefore proved futile. Shortly after this, on the 15th of June 1855, Mr. Wise, the honourable Member for Stafford, called on me at my office, being the Ordnance branch of the War Department; I had no previous knowledge whatsoever of Mr. Wise; he sent in his card, and stated that on that day he had given notice of a question with regard to the Duchy of Lancaster, and to ask whether I had been displaced. In the course of the conversation which then passed between Mr. Wise and myself, he informed me that it was the rumour in the clubs that impediments had been placed in the way of the discharge of my duties; he also stated that he had heard that from a very high authority; that there was a gentleman connected with, in fact, a near relation of one of the ministers, who had told him the same thing; he mentioned the gentleman's name, which, perhaps, it is unnecessary in the present case that I should mention; but, if the Committee wish it, I will do so. I told him I was perfectly ignorant of how that gentleman could have had any knowledge upon the subject; he said that it was very likely; but still it was the fact. Mr. Wise evidently was not ignorant of some of the facts connected with the Duchy of Lancaster and the property; he alluded in one case to the fact of Earl Granville being in arrear of certain payments to Her Majesty's Duchy of Lancaster; he left me, stating that, under the circumstances and the explanations I had given him, he thought he must, to use his own words, put his tongue under a veil; that is to say, not to speak quite so freely upon the subject. After this, in the month of August 1855, Lord Harrowby actually placed somebody in my office of auditor of the Duchy of Lancaster, to perform the duties which I was then discharging. In consequence of the communications that had taken place between Mr. Wise and myself, when Lord Harrowby took that step I went to Mr. Wise, and asked him if he would present a petition to the House of Commons; he said he would. The step which I have alluded to of Lord Harrowby having placed somebody else to do my duties at the Duchy of Lancaster, was in August, and consequently the Parliament had just risen. I could not, therefore, present a petition until the following year. In the winter of 1855 I was very ill, and I was obliged, under my medical man's advice, to desist from anything like work, and to take repose. On recovering, I set to work and drew up a petition to the House of Commons; that was in the early part of 1856. I took that petition to Mr. Wise, having had occasional communications with him; and he said that he would present it, fearless of anything it might contain. When I took it to him in the beginning of June 1856, he read it, brought it to me, and said that if I required him as a public man to present the petition, he could not refuse to do so; but he candidly told me, that the gentlemen who were implicated in it were his personal friends. I therefore felt that there was no other alternative than to take the petition out of Mr. Wise's hands. I then appealed to Mr. Roebuck, in consequence of his connection with administrative reforms. It was on the 25th of June 1856, that I went to Mr. Roebuck. I was totally unacquainted with him before I went to him. I stated to him the object of my visit, and I asked him if he would take the matter up on public grounds. He replied, that on looking over the petition and seeing that there were grounds to go before the Commons of England, he would take it in hand. He took the petition from me. The next day when I called upon him, he asked me to draw up an epitome of it that he might distribute it among his colleagues in Parliament. I did so. After he had read the epitome he perused the original document. I am particular in stating these facts, for reasons which you will see, with regard to the substance of this petition. After he had read this document he said to me, that it was for my consideration whether he should present the petition for me then, or wait until the next year, as there was then no time to obtain a Committee of Enquiry, or whether the petition should be postponed until the opening of Parliament, and he would then within a fortnight from that time obtain a Committee of Enquiry into the subject. I placed it entirely at Mr. Roebuck's decision to state whether he should present it then or wait. I said that I had placed my case in his hands, and I should adopt his advice. He advised me, for the reasons he then stated, that it was desirable to postpone it until the opening of Parliament in 1857. In the meantime, in the month of November (I am speaking from memory, I believe it was the end of October or the beginning of November), I called upon Mr. Roebuck

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Roebuck to go through the petition paragraph by paragraph, and he did so. On this occasion, after reading it, he suggested some amendments, some of which were to comply more with the rules of the House of Commons; but one of the amendments is the point at which I wish to arrive. I hold in my hand the original document, which I placed in Mr. Wise's hands, which became the draft of the petition which is now before the House of Commons, it having been amended by Mr. Roebuck's advice. After reading this document over, he said to me, when he had arrived at that part of it in which I alluded to the information I had obtained of the arrear of rent due by Earl Granville, "Why do you not put that upon the first page, at the commencement of the petition?" My answer to that was, that I had attempted to give a *seriatim* history of the proceedings such as they had come to my knowledge, and that I had therefore only mentioned that circumstance as an incident amongst others which had arisen in the course of the inquiry which I had made when at the Duchy. He so strongly urged that it should be put forward in the first page, and I consequently drew up a rider, which I hold in my hands, it not being in the original draft of the petition, as given to Mr. Wise to present in the previous year. I mention this, because there have been reports in the public papers, for which I am not responsible. There have been very great exaggeration of facts, and errors, which I could not undertake to correct, nor have I attempted to correct, so widely have they been spread. I feel that, were I not to mention these facts, it might be generally supposed, as it has by some been supposed, very erroneously, that I have been the actual penman of those reports, which would very materially prejudice my case. My only reason in stating these facts, is that I wish it to be perfectly understood that there has been no ill feeling, nor spleen upon my part towards the noble Lords with whom I have been brought into contest. I have adopted Mr. Roebuck's suggestion, and therefore I take the whole responsibility upon myself, and I am very much obliged to him for the assistance which he has given me upon the subject. But as he was going into the House of Commons with this petition he dropped it at the very threshold of justice without affording to me a sufficient reason. His reasons were these: "If I present that petition so surely you will lose your Ordnance appointment, and I will not have it upon my conscience to have been the means of your ruin." I said that that was one of the subjects which we had discussed when first I went to him; that he had told me he would expect me to "stand to my guns," and I had done so, and was prepared to go on. After a delay of a year, however, which Mr. Roebuck will explain, no doubt, if he feels it as a grievance, that I should now state the fact. I conceive that a dismissal from a patent office, or rather a supersedure, as Lord Harrowby has been pleased to term it, was an attack against my private character. I therefore asked Mr. Roebuck to go to Mr. Baines, and put him the simple and inoffensive question whether since the honourable mention of me in the House of Commons by Mr. Strutt, anything had transpired which would militate against my character as a gentleman and an honourable man, I put the question in writing into his hands. It was totally irrespective of anybody else whatsoever. Mr. Roebuck said he saw no objection to that question; and that he would put it that evening. He was in conversation with Mr. Baines in the lobby of the House of Commons that night for some time. The next day he told me he had put it before Mr. Baines, and that Mr. Baines's answer was, that if he put my question, all he could say was, that he was not Chancellor when I was at the duchy, and that he knew nothing at all about it. My remark was, that the object of giving notice of a question was to afford to the heads of departments an opportunity of obtaining from their subordinates the information which would answer it. However, nothing more transpired. I conceive therefore that I am justified in making this statement as a British subject, as the son of a gentleman, and the descendant of those who have been in the public service for the last three generations, because I feel that I have been damaged in the eyes of my countrymen. There is only one point now, before I proceed with the evidence.

2 *. You were granted the office of auditor of the Duchy of Lancaster by the Queen's letters patent, dated the 15th of May 1854?—I was.

3 *. Is not the Duchy of Lancaster an institution of antiquity, dating at least from the reign of Edward the Third?—It is.

4. The estates of the Duchy of Lancaster are a perpetual trust for the Sovereign, are they not, and her Majesty has only a life interest in them?—I was so informed

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formed by the substance of a statement which I received from the clerk of the records.

5. Is not the duchy, both within the County Palatine of Lancaster and out of it, under the governance of a court or council, which terms are synonymous?—That is stated in the same document which I received from the clerk of the records.

6. *Chairman.*] You are now speaking of a document which was sent to you by the clerk of the records of the duchy?—Yes.

7. You stated, in answer to Mr. Coningham, that the governance of the duchy is in a court or council, as is stated to you in the writing which was sent to you by the clerk of the records?—Yes.

8. Now turn to that document, and point out to the Committee what words in that document show that the governance of the duchy is in a court or council?—In the document referred to, the clerk of the records sets forth the question thus: "In what respect, if any, does the duchy court differ from the "court of the Chancellor and council?" which he answers in the manner following: "If I have rightly apprehended this question, the object seems to be "to inquire what is the distinction between the duchy court, as a court of "equity, and the duchy court, as a court of revenue. To this it may be "answered, that they are one and the same in their origin and constitution, and "differ only in their functions and use. They are both of equal authority and "equal antiquity, and date, at least, from the first institution of the duchy.

"It is not known that there is any Act of Parliament by which the duchy "court was constituted, neither have its powers and jurisdiction been limited or "prescribed by Parliament; but its existence has been repeatedly recognised by "the Legislature.

"The jurisdiction of the court of equity is concerned in the remedying "of differences arising between party and party, and in affording redress in "cases of intrusion upon the rights and franchises and the liberties of the "Sovereign, *jure ducatus*, and this court is likewise a court of appeal from the "Vice-Chancellor's court of the county Palatine of Lancaster.

"To the court of revenue belongs more particularly and immediately the "control in matters where the interest and management of the duchy estates "and revenues are effected.

"The Chancellor of the duchy presides and is supreme alike in the court of "equity and the court revenue; but the Chancellor and council of the duchy is "a mode of expression generally employed to signify the executive and governing "body in regard to the possessions of the Sovereign, *jure ducatus*, in contra-"distinction to the Treasury or other department of the Crown revenues when "referred to in regard of the management of the estates and revenues *jure "coronæ*."

"The members of the council are selected and nominated by the Chancellor "and approved of by the Sovereign, and everything that is done with relation "to the affairs and management of the duchy is presumed to be done by the "Sovereign, with the advice of her Chancellor and council of the duchy, without "interference or control from any other quarter whatever."

Besides the foregoing statement from the clerk of the records, showing that the court and council of the duchy "are the same in their origin and constitution," there are the various Acts of Parliament alluded to therein, viz., 19 Geo. 3, c. 45, preamble and sections throughout; the 34 Geo. 3, c. 75 s. 20; the 38 Geo. 3, c. 60, ss. 45, 49, 52, 53, 54, 55, and Schedule E; 42 Geo. 3, c. 116, ss. 135, 138, 139, 140, and Schedule G; and 48 Geo. 3, c. 73, ss. 9, 12, 28, 29, 30, all of which confide the management of the duchy estates to the "Chancellor and council," at which time there had been no member introduced into the council, except those officers of the court which were, by their special duties, members of the court, amongst whom was the auditor.—*See* the oath taken by him as the custodiam of the evidence and records, and as to his secrecy of what he may hear communed in the court.

9. Mr. *Coningham.*] The auditors of the duchy have by virtue of their office always been officers of the court, *i.e.*, members of the council of the duchy, have they not, and had never been excluded from the court or council until after your appointment?—No, not until after my appointment.

10. Upon what legal authority do you state that the auditors are by virtue of their

their office officers of the court?—It is Part 4, chapter 36 of Lord Coke's Institutes: "The officers of this court be the chancellor, the attorney, the receiver, the clerk of the court, the auditors, surveyors, messengers; there is an attorney of the duchy in the Chancery and another in the Exchequer. There be four learned in the law, assistants, and of council with the court."

11. Have you any authority for stating that the court is the same as the council of the duchy?—I have the authority of the clerk of the records in a statement made by him, which was transmitted to me by the clerk of the council upon the 31st of January 1855, in which he says, in answer to a question that I put to him, "If I rightly apprehend this question, the object seems to be to inquire what is the distinction between the duchy court as a court of equity and the duchy court as a court of revenue. To this it may be answered, that they are one and the same in their origin and constitution, and differ only in their functions and use; they are both of equal authority and equal antiquity, and date at least from the first institution of the duchy." I wish merely to make this observation. The view I take of this matter is, that the court or council, being part of the constitution of the duchy, and in this state placed in trust for the Sovereign, it appears to me that it cannot be interfered with or altered without an Act of the Legislature; the auditor being one of the court or council, it has been an infringement of the constitution of the duchy in my opinion to exclude him.

12. What evidence can you produce that, until your appointment, the auditors were not excluded from the court or council of the duchy?—In the official register of 1796, I find the auditor's name mentioned as one of the court.

13. *Chairman.*] Will you read those words in that book which is now before you, of the year 1796, which you think show that the auditor was one of the council or court?—Under the heading of "Duchy Court of Lancaster, Somerset-place," I find, chancellor, attorney-general, king's serjeant, king's counsel, receiver-general, auditors, clerk of council, clerk in the court in causes, surveyor of lands and woods south of the Trent, surveyor of lands north of the Trent, surveyor of woods north of the Trent, usher, and messenger.

14. Do you suppose that all the officers you have just read were members of the council?—Were part of the court.

15. Were members of the council or court of the duchy?—I conceive the court or council, as I hope to be able to show, are synonymous. I conceive that those were all members of the court; that some of them had duties out of the court and others had duties in the court; and I shall be able to show, I think, that the auditor's duties were in the court.

16. Do you suppose that the usher was a member of the council or court?—Of the court as then constituted.

17. You said that the court and council are the same; do you think that the usher was a member of the court or council?—I conceive that he was not a member of the council, but that he was a member of the court, because I think I shall be able to show afterwards that there is a distinction between those members of the court which were in the council and those members of the court which were out of the council. I find that also stated, "Duchy Court of Lancaster" in another official calendar of 1824, where the chancellor, the attorney-general, the king's serjeant, the counsel, the receivers and the auditor are stated. I find it again stated in another calendar, still under the head of "Duchy Court of Lancaster in 1827," the auditor is again stated as part of the council.

18. Viscount *Goderich.*] Are the messenger and usher also included in that list?—The usher is, but not the messenger in 1827. In 1837 I also find that the chancellor, the attorney-general, the receiver-general, the king's serjeant, the king's counsel, the auditor, the clerk of the council, and the clerk in court for plaintiffs, and the surveyor of lands, the surveyor of woods and forests, and the surveyor of lands and woods, are also included. In the register for 1853, which I was wishing to come to, when I was interrupted, it is still repeated in the heading as the "Duchy Court of Lancaster." It states the chancellor, and then underneath that is the council, the Duke of Newcastle, Lord Hardwick, Earl Spencer, Lord Portman, the Right honourable Sir James Graham. It proceeds to state the attorney-general, the receiver-general, and the auditor of the duchy, under the head of the council. Immediately following that there is the office of attorney-

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attorney-general, stating T. F. Ellis; the receiver-general, Major-general R. C. Fox; the auditor, John Lockhart, Esq., clearly showing, in my opinion, that the same court which was mentioned before was carried forward from year to year, and that in this year, when some additions were made to the council, the offices of the attorney-general, the receiver-general, and the auditors, were put into the list of the council without their names. And then, in order to give their names under the head of the court, as officers of the court, independent of their being members of the council, or rather when I say independent of their being members of the council, I mean having their functions to perform as auditors, and so on, independent of the council, they actually repeat their offices with the mention of their names, showing, in my opinion, that what was under the head of the council in this register was recapitulated under the head of "Duchy Court of Lancaster," and was a repetition of what had taken place in the previous registers. And, as I have stated, they do not put under the head of the council the particular names of the individuals but their offices, and that was my reason for showing, first, that the court was carried forward from year to year; that in the latter period part of the council included those members which formed the court, and in that council the messenger and the ushers are omitted, but the auditor, the receiver-general, and the attorney-general, are not omitted.

19. Mr. *Coningham.*] Was not Mr. John Gibson Lockhart your predecessor as auditor of the Duchy of Lancaster?—Yes.

20. And when the Chancellor of the Duchy (then the Right honourable Edward Strutt) first sent for you to offer you the appointment, he told you that Mr. Lockhart had not yet resigned that office, but that he had consented to do so?—Yes; and until then I was not aware that the office was not already vacant.

21. On that occasion, did he not say that Mr. Lockhart, the auditor, was a member of the council?—Yes, he did.

22. Will you explain to the Committee in what terms that communication was made to you, and what it led you to understand?—This communication was made in indefinite terms, which subsequently admitted of the construction that it was intended I should not be a member of the council, for he gave me to understand that Mr. Lockhart was a member of the council separately from his office of auditor, and kept back from me that he was such as auditor of the duchy, and indefeasibly from that office.

23. Lord *Harry Vane.*] Then he gave you to understand that you were not to be a member of the council?—His expression was in very indefinite terms. He told me that I should only be summoned to the council when the duties of my office required it. He did not tell me then that it was indefeasibly from the office of auditor that Mr. Lockhart was a member of the council.

24. Mr. *Coningham.*] You were after this required to take an oath before your patent was sent to you, and before you could enter on the duties of your office?—I was.

25. Have you a copy of the form of oath which was administered to you?—I have a copy.

26. Will you read it to the Committee?—This is the auditor's oath: "Ye shall swear that you will well and truly serve our Sovereign Lady the Queen and her heirs in that office that ye now be admitted unto as auditor of the Duchy of Lancaster, and be obedient, diligent, and attentive unto the council of the same, in all things as shall concern the weal, profit, and good governance of the said duchy. Ye shall also keep well and surely the records of evidence of the said duchy that shall come to your keeping and ward, and none of them embezzle nor withdraw nor suffer to be embezzled nor withdrawn to your power, whereby all hurt or harm may grow to the Queen by reason of the same; and ye shall also keep secret all such things as ye shall hear spoken and communed in the council of the said duchy, and the same in nowise to discover nor make open to any other person only to the Queen's own person, or such other of the said council as ye shall be commanded to do. All these things, and all other that appertain to your office and charge, ye shall well and truly do and perform after your cunning and power. So help you God."

27. The oath states that you might hear things communed at the council, does it not?—It does so state.

28. The form of oath therefore implies that under some circumstance or other you could be present at the council?—It distinctly states that.

29. By that oath you were bound to "well and truly serve the Queen," and to perform all the duties which appertained to the office of auditor of the duchy, and to use your utmost power to protect the interests of the Queen?—Yes; all that I swore to do.

30. Is that the same oath as was administered to your predecessors in office, who sat at the council of the duchy?—It was administered to me as the usual oath taken by the auditor of the Duchy of Lancaster.

31. Did you not ask the clerk of the council when that form of oath was instituted?—I did, and he said it was of antiquity; that he could not tell its origin, but that he found it recorded in a very old book, called the Pica Book.

32. On what day was the oath administered to you?—On the 15th of May 1854.

33. Did not the clerk of the council write to you a week previously, namely, on the 8th of May 1854, for your christian names, that they might be inserted in your appointment?—Yes.

34. Will you read his letter of the 8th of May 1854 to the Committee?—"Mr. Danvers presents his compliments to Mr. Francis Bertolacci, and will be obliged by his supplying him with his second name, with a view to his being properly designated in the appointment of auditor of this duchy. Duchy of Lancaster, Waterloo-bridge, 8th May 1854."

35. Did not the clerk of the council write to you on the 12th of May 1854, stating that the Chancellor had appointed the 15th of that month for you to be sworn in as auditor of the Duchy of Lancaster?—He did, in the following terms: "My dear Sir, The Chancellor of the Duchy proposes your being sworn in as auditor on Monday next, between three and half-past three o'clock, if you can attend at this office about that time."

36. Were you made acquainted with the form of oath before it was administered to you on the 15th of May 1854?—I was not made acquainted with any form of oath.

37. Were you shown the draft of the patent you were to receive, or were you in any way acquainted with what it would contain before you received it on the 18th of May 1854?—I was neither shown the draft, nor told what it would be; but after I had taken the oath which was administered to me by the clerk of the council, in the presence of the Chancellor (then the Right honourable Edward Strutt) the clerk of the council said to me, "Your patent will be sent to you," and the following is the letter which accompanied it: "My dear Sir, Herewith I have the pleasure to forward to you your patent as auditor of the duchy; the fees on the appointment amount to 22*l.*; stamp 12*l.*; together 34*l.*"

38. You have told the Committee that your patent was dated the 15th of May 1854, on which day you took the oath of office which was administered to you; it was therefore three days after you were auditor that you first saw your patent, which had been in course of preparation from the 8th of that month?—It was three days.

39. Was there any difference between the wording of your patent and that of Mr. Lockhart, your predecessor?—Speaking from memory of what I read in the books of record in the duchy, there was no difference whatsoever.

40. Does not the patent appointing you refer to Mr. John Gibson Lockhart as having held and resigned the office of auditor which was then granted to you, and are not the words in that patent which immediately follow that reference thus: "To have, hold, enjoy, exercise, and occupy the said office"?—The patent recites the holding of the office by Mr. Lockhart, and then states that I am "to have, hold, enjoy, exercise, and occupy the said office."

41. You were therefore not aware, until after your patent was sent to you, nor until you entered on the duties of your office, and were called upon to certify to facts affecting the disposal of the duchy property, that in connexion with your appointment an attempt had been made to curtail the powers of the auditor, and to deprive him of a position which afforded him the opportunity of getting an insight into the management of the duchy property?—I was not aware until then that the legally constituted court of the duchy should be composed of its principal officers, including the auditor; and that my exclusion was, as I conceive, unconstitutional.

42. You therefore found that you had been led into a false position, by an unfair advantage having been taken of your want of information respecting the constitution of the duchy, and of the privileges and duties of an office which was offered to you, without your having sought it?—I most distinctly think so; and

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had I not opposed such proceedings as soon as I discovered them, I should have made myself a willing accessory to my testimonials of efficiency and integrity being made the mere blind to Her Majesty and the House of Commons.

43. Do not the charters of the duchy, granted by Henry the Fourth, Henry the Fifth, Edward the Fourth, and Henry the Seventh, confide the government and management of the duchy to its officers, and prohibit the interference of the Government in its affairs?—Special provisions to that effect are made in those Acts of Parliament, but more precisely so in the charter of Henry the Fifth, which was afterwards in this respect confirmed by those of Edward the Fourth and Henry the Seventh.

44. Lord *Harry Vane.*] What was the date of the charter?—Henry the Fifth.

45. *Chairman.*] "Roll of the Parliament holden at Westminster on Monday next after the octaves of St. Martin's; second year of King Henry the Fifth, after the Conquest. Also be it known that the King, of his certain knowledge, and with the assent of the Lords spiritual and temporal, and of the Commons in this Parliament assembled, by full authority of the same Parliament, has declared, granted, and ordained," &c. "that all honours," &c. "which since the death of the Lady Mary, one of the daughters and coheirs of Humphrey de Bohun, formerly Earl of Hereford, have descended by inheritance to the King, shall be severed from the Crown of England, and be assigned, united, and incorporated to and with the said King's Duchy of Lancaster for ever." Does that prohibit the interference of the Government in its affairs?—Yes.

46. Mr. *Coningham.*] Do not these charters mention the auditors as being officers of the duchy, and do they not specially make the receiver-general, as well as all other receivers and parties whomsoever, account to the auditor of the duchy instead of to the Barons of the Exchequer?—They do.

47. Were not these charters granted with the assent of Parliament?—They were.

48. Did not the Acts of the 19 Geo. 3, c. 45; 34 Geo. 3, c. 75; 38 Geo. 3, c. 60; 42 Geo. 3, c. 116; and 48 Geo. 3, c. 73, grant and confirm functions to the council of the duchy as then constituted of its chancellors and officers, including the auditor?—They did; and those Acts, in very general terms, refer to this guardianship and management of the duchy property.

49. When you were appointed auditor, had any other Acts of Parliament been passed recognising any other council than that referred to, and of which the auditor had always formed a part?—None that I am at all aware of.

50. Do not the Acts of Parliament last-mentioned clearly preclude the Chancellor of the Duchy from exercising an absolute power over the council or property of the duchy, by requiring him invariably to act jointly with the council of the duchy in all matters relating to the governance or sale of the duchy property?—Those Acts invariably use the words "the Chancellor and Council of the Duchy" whenever power is given to them to manage the duchy property.

51. Formerly were there not two auditors for the duchy, namely one for the north part, and the other for the south part of the duchy?—There were two.

52. And their offices were subsequently united and held by one person, called the auditor of the duchy?—Yes; this is stated in a memorandum by the Clerk of the Records, dated the 22d of December 1854, which is valuable as far as the facts it records, but not as to his opinions in support of an absolute authority, I conceive, by the Chancellor.

53. *Chairman.*] Will you deliver in that document?—I will do so.

54. What was the opinion given by the clerk, in the letter to which you refer, which you reserved yourself from assenting to?—It leads to the inference that the Chancellor is absolute, which I conceive to be at variance with the Acts of Parliament always stating that the Chancellor and Council shall act.

55. Mr. *Coningham.*] Is this not so stated in a document drawn up for you by the clerk of the records of the duchy, dated 22d December 1854, upon inquiries made by you whether the duties of the auditor had ever been limited?—Yes.

56. Did he not state in that document that there was nothing in the constitution of the duchy to control or prescribe the manner in which the auditor should perform his duties?—Yes.

57. *Chairman.*] Is that the opinion of the clerk, or does he give it you from any authority?—He states that he cannot find by his researches that there is anything to prescribe, curtail, or limit the duties of the auditor.

58. Mr. *Coningham.*] Does not the clerk of the records of the duchy invariably

riably in that document assign the powers of legislating for the duchy to the Chancellor and Council acting jointly?—Yes.

59. Before the auditor was excluded from taking his seat at the court or council of the duchy, had he not the same opportunity as the other members of the council of being informed of the value of the duchy property and of the manner in which the Chancellor and Council applied it?—He had.

60. *Chairman.*] How do you know that?—He was always a member of the council, and consequently had a right to sit at the council, and heard what was communed at the council.

61. Do you know that he always did sit in the council?—Yes.

62. Mr. *Coningham.*] But since his exclusion from the council he has neither information of this kind, nor the opportunity or means of checking any application of the landed property of the duchy?—Certainly not.

63. Did not Lord Belper on the 15th December 1854 (then Mr. Strutt), state to the House of Commons that the office of auditor of the duchy had been given to you in consequence of the efficiency with which you had discharged public duties connected with the investigation of accounts?—Yes.

64. Were not the accounts he referred to those which you had investigated for the Treasury, and did he not on that occasion state that he had received the highest character of you from those under whom you had served, and that you were a person of strict integrity?—Yes; his statements to the House of Commons were to that effect.

65. Did Lord Belper assign any reason for excluding you from the council?—He assigned no reason. His communication to me under this head was indefinite. What afterwards transpired, proved that he intended that it should form a basis of my exclusion from the council of the duchy.

66. Lord *Harry Vane.*] That what should form a basis?—His communication to me at the time of my appointment.

67. *Chairman.*] Lord Belper made a communication to you when he offered to you the office?—Yes.

68. Whatever that communication was, did you understand that it was to be a sort of basis upon which he should afterwards exclude you from a place at the council?—Yes; I understand now that that was intended.

69. Did you so understand it at the time?—I was perfectly ignorant of the constitution and nature of the Duchy of Lancaster. The post was offered to me without being sought. At that time I understood the duties of the auditor of the Duchy of Lancaster to be the ordinary duties of an auditor, that is to say, that an auditor would require a warrant, and that he would require a voucher; but by the inquiries which I was afterwards led to make into the constitution of the duchy, and finding that it had the peculiar character of a county palatine, I found that the auditor of the Duchy of Lancaster was quite a different officer from the ordinary auditor of a simple account, because, as he had always been one of the court, and as I also find him afterwards mentioned as one of the council, and as he discharged special duties which appertained to a member of the council, he became not only the examiner of accounts, but he was required to attach his signature to deeds affecting the property and inheritance of estates of the Crown, and the deeds he was required to sign stated, amongst other things, that the best price and consideration money was obtained for properties which were sold.

70. Am I right in inferring from the evidence which you now give, that when that office was offered to you by Lord Belper, and when you accepted it, you supposed it to be what is ordinarily understood by the word auditor; and that therefore when Lord Belper gave you to understand that you were not to have a place in the council, it did not strike you as being contrary to what you would naturally have expected when the office of auditor was given to you?—Decidedly so. He gave me to understand, not in positive terms, that I should not be at the council, but that circumstances might arise which would require me to be at the council. It was, in fact, in very indefinite terms.

71. You mean to say that he told you that circumstances might arise which would require your presence at the council?—His conversation inferred that.

72. Therefore you drew this conclusion, that you would not always be at the council, and would not always have a right to be at the council?—Quite so.

73. Mr. *Coningham.*] Has the receiver-general, whose accounts it is the auditor's duty to examine, been excluded from the council?—No.

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74. Is not the auditor, by being excluded from the council, made dependent on the minutes of the Chancellor and council, and on the clerks acting under them, for the information with which he now has to check the application of the duchy property?—Yes; and as I shall hereafter have occasion to show, I was refused free access to the minutes of the council, on the allegation that I was not a member of the council of the Duchy of Lancaster.

75. When you were appointed auditor, did not Lord Belper, who was then Chancellor of the Duchy, say to you that he wished you to see whether any portion of the large amounts of rent then in arrear, and which had been yearly brought forward in the receiver-general's accounts, could not be struck out as being irrecoverable?—His Lordship expressed that wish to me.

76. Do you consider that, as auditor, you would have been justified in excluding from the accounts any such sums as being irrecoverable, without having the opportunity of making yourself thoroughly acquainted with all the past transactions and minutes relating to the duchy property?—Certainly not.

77. Has it not been ascertained by the researches of the clerk of the records of the duchy, and stated by him in a document dated 31st January 1855, 1st. That from the institution of the duchy the auditor was required to be a party to the sale of any duchy property?—Yes.

78. Secondly, that before bills were drawn up for the sale of any duchy property, the surveyor had to make a report and valuation of it, and to submit such report and valuation to the auditor?—Yes.

79. Thirdly, that the auditor (who was the officer of record and check) then made out a document called a "Particular"?—Yes.

80. Fourthly, that the Chancellor of the Duchy then desired the clerk of the council to prepare the bill in accordance with the auditor's particular?—Yes.

81. Fifthly, that the particular signed by the auditor was in fact the warrant to the clerk of the council to sign the bill, as his signature was to certify that the bill agreed with the auditor's particular?—Yes.

82. Sixthly, that the clerk of the council signed such bills to certify that they agreed with the auditor's particular before they were submitted to the Sovereign for the sign manual?—Yes.

83. Seventhly, that in August 1844 (when the auditor sat as a member of the council) a simpler mode was adopted by him (with the concurrence of the Chancellor and council) of discharging the same functions as he had before performed with reference to the sale of the duchy property; the change being by the discontinuance of the signature of the clerk of the council to the bills, as he had been in the habit of doing, to certify that they agreed with the auditor's particular?—Yes.

84. And the substitution of the signature of the auditor himself to the bill, instead of his drawing up the particular upon which the bill had heretofore been based?—It has been so stated by the clerk of the records, as to the antiquity of the auditor's participation in the bills, also as to the grounds on which the bills have been prepared to pass grants in fee of the duchy property.

85. *Chairman.*] When did the clerk so state that?—On the 31st January 1855.

86. Mr. *Coningham.*] Was not the statement by the clerk of the records above referred to transmitted to you in a letter from the clerk of the council, dated 31st January 1855?—It was.

87. Notwithstanding your exclusion from your seat at the council of the duchy, have you not been called upon by the Chancellors and the clerk of the council to sign the bills for the sale of the duchy property, and to attach, after your signature to such bills, the word "Auditor"?—I was specially called upon by the clerk of the council to affix, after my name to the bill, the word "Auditor."

88. Besides your signature to the bills themselves, were you not also required to sign a certificate at the foot of such bills, to the effect that they had been prepared pursuant to a minute of the council of the duchy; and were you not told that to your signature to such certificates you were not to attach the word "Auditor"?—Yes, I was called upon by the Chancellor and the clerk to sign both the bills themselves, and the certificate to that effect at the foot of the bills, with the word "Auditor" to the former, and omitting the word "Auditor" to the latter of my signatures.

89. *Chairman.*] What is the difference between the certificate and the bill?—The

—The bill records the extent of the property, the acts under which the property is sold, and the value and consideration money for which the property is parted with. To that document I was called upon to put my signature with the word "Auditor." At the foot of that bill there was a certificate that it had been prepared according to a minute of the council. To that certificate I was required to attach my name, but without putting the word "Auditor."

90. Mr. *Coningham.*] Have not those bills stated that the amounts therein mentioned (being those for which the duchy property was to be sold) were the best prices and consideration money which could be obtained for the property?—Yes; and I respectfully suggest that all the bills which I have signed should be laid before this Committee.

91. Was the property to be sold put up for purchase by competition, so as to ascertain the best price it would fetch, or have the agreements to sell it for stated sums to certain individuals been made by the Chancellor of the Duchy and the clerk of the council?—The property was not put up for sale by auction; I suggested that that plan should be adopted as the test of the value, but I was opposed by the Chancellor and the clerk of the council, who had made private contracts with the parties as purchasers of the duchy property, and it was then urged that the arrangements having been made with the parties, the Chancellor and the council were in honour bound to complete the sales, and consequently they called upon me to sign the bills for such sales.

92. *Chairman.*] Will you give the Committee the date of any such statement made to you, and what you were called upon to do?—That fact is alluded to in a letter from myself to Lord Belper, then the Right honourable Edward Strutt, on the 9th of June 1854, with regard to being called upon to sign the documents.

93. I want a proof of that last answer of yours, in which you say that you were called upon to sign certain private contracts (which in your opinion were contrary to what was right and just), because you were told you were bound in honour to do so?—There is more than one document which I was called upon to sign; but with regard to one document, it was stated I was expected to sign it, because the Chancellor and Council were bound in honour to do so. In a letter dated the 18th of January 1855, from Mr. Danvers, the clerk of the council, to me, he says: "I am desired to add, that the duchy being bound in honour to complete the grants which the council have agreed to make, the Chancellor must request you, after the explanation above given, to affix your signature to the bill in the usual way." I wish to observe upon that, if the other members of the council choose to compromise the interests of the Queen's estates, the auditor must confirm what they have done; if so, what is the good of an auditor's signature.

94. Do you know the particulars with regard to those contracts; were you acquainted with them then?—No; I was never made acquainted with any sales or intentions to sell the property until after, with the exception of one case, where I did question the valuation; and which, in the course of this examination, will come forth in rather a prominent position.

95. Am I to understand that you objected to it, not because you had any reason to object to the contract, but because you were not consulted beforehand with regard to the making of it, which you thought by reason of your office you had a right to be?—I objected because I was not made aware of the contracts until after they had been made; and according to information which had been afforded me by the clerk of the records, it was very clear that the object of the auditor's signature was to exercise that check against the appropriation of the property which afforded some protection that the full value of the property was obtained for it.

96. Am I right in inferring that your objection to signing those contracts was not that there was anything, in your opinion, faulty or wrong in them, but that you should have been called upon to sign them as auditor when you had no means of checking the value of the land?—Quite so. I do not bind myself to say that there was nothing faulty in them.

97. Your objection to signing those contracts was not that there was anything, in your opinion, faulty or wrong in them, but that you should have been called upon to sign them as auditor when you had no means of checking the value?—I objected to it upon both principles in the case that is now before us. I objected to allow my name to be made a mere stamp upon the thing to which it might be attached; but I also in this individual case objected to the valuation of the property, and I showed that the one fact was applied to the other.

 98. Then

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98. Then your former answer was not quite correct, because your former answer was, that you objected because you were not consulted. I now understand that you objected not only because you were not consulted, but also because you had reason to know that it was an improper contract?—I believe that it was not the full valuation.

99. The letter calling upon you to sign must be delivered in to the Committee, and you must state the reasons that you had for looking upon it as a bad contract?—That will appear in the course of the examination.

100. The transaction in question is one of the date of the 18th of January 1855?—It was alluded to in a letter of that date.

101. Will you be good enough to turn to that letter?—I must beg leave first to read a letter to Earl Granville, on the 8th of January 1855, out of which this question will arise; because in the present examination the charge, as it is stated, has arisen, not out of an answer in the first instance, or a voluntary statement made by me, but it has arisen in the cross-examination by the Chairman of the Committee, and consequently it is necessary that I should explain it by reading the document on which it is founded: "My Lord, I have the honour to enclose a bill which was sent to me by the clerk of the council of the Duchy of Lancaster on the 21st of December for my signature, advising Her Majesty to dispose of some land in Salford, Manchester, to Mr. John Brooks, and I take the liberty to enclose also extracts from such parts of his letters as allude to the proceedings connected with the contemplated sale of that portion of the duchy property. It appears to have been the practice for the auditor to affix his signature in two places to all bills to be submitted for the Royal assent to the passing of the duchy seals for the disposal of any part of this inheritance of the Crown; namely, first to the bill itself, adding the word "Auditor" after his name, thus affording to the Sovereign his guarantee of having ascertained that the equivalent in money had been accepted for the property; and secondly, to the certificate at the foot of the bill, without stating the title of his office, that the sale of the property mentioned in it was duly recommended to the Sovereign by the Chancellor and council. All my predecessors could give those guarantees to the Sovereign, because as their office admitted them to be members of the council of the duchy, they had the means of checking the facts before they came into existence. It is clearly shown by the accompanying extracts from the letters from the clerk of the council, that, by the restrictions now placed on the functions of the auditor, he is precluded from any knowledge either of the applications of parties to purchase, or of the intentions of the Chancellor and Council to sell any portion of the Royal inheritance until the decision has been made, the sum decided on, and the Sovereign become bound by the acts of the Council to effect the sale to the intended purchaser for the sum which has been proposed to him. Your Lordship will therefore perceive that the checks exercised by prior auditors have been removed by the decision of the Council which excludes the auditor from participating in their deliberations, and consequently as the functions of my office with regard to the disposal of land have been paralysed, my signature to such bills carries with it to the Queen the appearance of the auditor's guarantee to acts to which in that capacity I am required to be a party, but which I have been debarred of all means of checking. As the property in this instance sold has been officially brought before me, I think I should not be warranted in withholding the following observations on the subject. The bill does not describe the exact position of the land which is said to have been encroached on, beyond stating that it is situated on the west side of Cross-lane, in the township of Salford; neither does the plan in the margin of the bill afford any means of delineating the spot by giving any description of the premises by which it is bounded. On reference, therefore, to the maps in the Ordnance office, I was not, even with competent assistance, able to trace the plot of land in question. Secondly, by making inquiry of the clerk of the council, I have obtained this information by his marking in pencil in the Ordnance map the spot where the land is situated, from which I have ascertained that it consists of 130 feet frontage to the road by about 17½ feet in depth. Third, the amount for which this land has been sold is 53*l.* 15*s.*, being the computation of 20 years' purchase on the valuation of 2*l.* 13*s.* 9*d.*, made in the year 1828, for the annual rental. Fourth, that since the property was valued in the year above-mentioned, this land, which was then in the country, has, by the vastly-increased boundaries of the town, become

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become considerably within its limits, and in the midst of valuable building ground. That the value of this plot of land, similar to which there would appear to be more in the manor to be disposed of by the duchy, has been much increased since the year 1828, by the construction of two important railways, from the station of one of which railways it is distant only 150 yards, and is on the main road leading from it to the interior of the town, and within 240 yards of the Salford cattle-market, between which and the railway station it is situated. Sixth, that the land in question is distant about 350 yards only from the Manchester, Bolton, and Bury Canal, which has much enhanced the value of property in the neighbourhood since the town has extended to its present limits. Under the foregoing circumstances, I do not feel that I can conscientiously attest by my signature that the interest of Her Majesty's inheritance are secured by the bill. First, because the property has been estimated by a valuation of its yearly rental, made 25 years back, and inapplicable to the present time. Secondly, because the number of years' purchase are much less than those for which property generally sells, but especially building ground in a manufacturing town of the importance of Salford. If I may be allowed to offer an opinion on the subject of the duchy lands, I would suggest that the same course be adopted as that followed in the public service, namely, that when any land is to be sold an advertisement should be put into one or more of the local papers for sealed tenders of prices from any one who may wish to be a purchaser, and that such tenders should be opened only in the presence of a committee appointed for that purpose; the auditor, clerk of the council, and the solicitor to the duchy might probably be a suitable committee to act in this respect, so as to avoid the occurrence of any delay by the occasional absence of the Chancellor, or the inconvenience of summoning a council for every such occasion. The auditor would thus have an early intimation of the contemplated sale of, and tenders for, any of the property of the duchy. The solicitor would be present with his professional knowledge should any points occur requiring a preliminary legal opinion with respect to the transfer of the property; and the tenders, after being duly noted by the Committee, could without delay be handed over by the clerk of the council to be submitted to the Chancellor and council, while the most efficient means would thus have been taken to ascertain the best price then procurable for the property to be disposed of, without binding the Queen to part with it for less than its present or probable future value. With the operation of the plan I have now presumed to recommend, the auditor could, consistently with the examination which he is in duty bound to make into all matters submitted to him, sign the bill as a guarantee to the Sovereign that in the conversion of the estate of the duchy from landed into funded property the inheritance had not been damaged. I beg leave most respectfully to assure your Lordship, that nothing but the responsibility imposed on me to give a full and complete examination into all matters brought before me, and a sense of duty to Her Majesty, has induced me thus to lay these facts before you instead of signing the bill. But if in adopting this course I appear to your Lordship to have exceeded the limits to which you would desire my remarks to be confined, I hope your Lordship will both pardon the freedom of my observations, and not hold me responsible for the consequences of an imperfect system over which my office has no longer any control. I have the honour to be, my Lord, your Lordship's most obedient humble servant, *Francis Bertolacci*. The Right Honourable the Earl Granville, &c. &c. &c." In that letter to Earl Granville were enclosed copies of those which I received from the clerk of the council, namely, Mr. F. D. Danvers to Mr. Bertolacci, 21st December 1854. Dear Sir, I beg to submit to you for signature, a bill for a grant in fee to Mr. John Brooks, of Manchester, of an encroachment from the waste on the roadside on the manor of Salford, the terms for which were decided at the council held on the 14th of last month, and have since been accepted on the part of the purchaser. The minute directing the bill to be prepared for Her Majesty's signature is dated the 19th instant, as stated in the certificate at foot of the bill." Against that I made a memorandum to this effect: "This was the first intimation made to the auditor of the sale of the property. Thus the sale of the property was decided on, the terms proposed, and the transaction concluded with the purchaser, without the auditor being informed of the intended disposal of the property. Five entire weeks are allowed to elapse, and then the Bill is submitted to the auditor for his signature, by which means he is precluded from exercising any check or making any observations to the Chancellor and

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council before it is too late to offer an opinion on the subject." Mr. F. R. Bertolacci to Mr. Frederick D. Danvers: Extract, 21st December 1854: "I have received a Bill for the grant in fee of land to Mr. John Brooks, in Salford, and your two letters of to-day's date; I shall be obliged if you will send me the surveyor-general's report of the property to be sold to Mr. Brooks, in Salford, for the sum of 53 *l.* 15 *s.*" Mr. F. D. Danvers to Mr. F. R. Bertolacci: Extract, 22d December 1854: "Salford, 102. The valuation of the 250 square yards on the road side in Cross-lane, Salford, is included in a valuation made in 1828 of the whole of the duchy waste in the manor, a valuation made with a view to the disposal of encroachments whenever parties could be obtained to purchase. It has been so much the worse for wear that I am induced to hope the enclosed extract will answer your present purpose, as the original can be referred to when you come to the office. You will observe that it is the annual value which is there given. The court have universally offered the encroachments at 20 years' purchase on account of the nature of the property." Copy of enclosures in Mr. Danvers' letter: "Extract from a survey and valuation of His Majesty's estates at Salford and Pendleton, by John Wilkin. Salford, No. 102. Occupier, William Marsden; description of premises, enclosure in Cross-lane; number of yards, 258; annual value, 2 *l.* 13 *s.* 9 *d.*; rate per yard, 2½ *d.*"

102. *Chairman.*] That is a valuation from a valuer at Salford?—It is an extract from the valuation sent to me by Mr. Danvers, and which I sent forward in the enclosures to Earl Granville.

103. The valuation is signed by a valuer at Salford?—Yes, in 1828. The observation which I made against that, was this: "In the year 1828, Cross-lane, Salford, was considered quite in the country, and that which was waste then is now valuable building ground, in the populous part of the town, from the increased limits of Manchester and Salford. The annual value in 1828 being 2 *l.* 13 *s.* 9 *d.* must now, in 1855, for the reasons above stated, be considerably greater, and consequently the fee simple of the property should be computed on its present annual value. The nature of the property has been altogether altered since 1828 by the construction of two railroads, and by its conversion from waste land in the country into building land within the limits of the town; it consists of 130 feet frontage to the main road by 17½ feet deep; is only 150 yards from the railroad station, and is between it and the town; is not more than 240 yards from the Cattle Market, and about 350 yards from the Manchester, Bolton, and Bury Canal, and near a second railway." Another enclosure to Lord Granville was a copy of my letter to Mr. Danvers of the 2d of January 1855: "Dear Sir, I last night received your letter of yesterday's date, on the subject of the bill you sent me for my signature, to advise Her Majesty to sell a piece of land in Cross-lane, Salford, to Mr. Brooks, for the sum of 53 *l.* 15 *s.* Before the 21st of December, when you sent me the bill, not the slightest intimation was made to me of any proceedings connected with the property in question, and since that date the subject has received my constant attention. I am, my dear sir, your's truly, *Francis R. Bertolacci.*" This is the note that I made upon it: "This letter shows that the auditor's signature was required to the bill, without his having had the power of exercising any check, the contract for the sale having been definitely completed before the bill was sent to him, or any information afforded to him relating to the grant. Why should the auditor be made a party to the transaction, as he has been prevented from exercising those functions of check which his predecessors had, as members of the council of the duchy?" Mr. Danvers writes to me upon the 18th of January 1855: "Dear Sir, I am directed by the Chancellor of the Duchy to inform you, in reply to the letter which you addressed to him, under date of the 8th instant, relative to the sale to Mr. Brooks of an encroachment from the waste of the manor of Salford, that it appears you have mistaken the nature of the property in question. You represent it as building ground, but it would appear to his Lordship that you are not aware that slips of land like this are not of the nature of freehold lands of the duchy. The duchy, as possessing the manor, has no right to enclose them, and it is not until after encroachments have been made by individuals, and have been suffered to exist by those having rights of common over the waste so taken from them, that the duchy is empowered to sell them. Supposing the duchy to take forcible possession of the encroachments when made, and to begin to erect buildings upon them, there is no security, unless the encroachment should happen to be one of long standing,

against

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against fences being taken down, and the land being again thrown open in waste for the use of the public." My note against that is this: "It would follow by this mode of argument that the duchy had not the power of claiming that right of freehold which others have unlawfully usurped from it, but that it can confer that right on the aggressor or some other party, even to the prejudice of those who have by usage acquired a right of common on the land. I think the right of the Crown cannot be infringed on in this way, although such infringement might successfully be practised against an individual under statutes of limitation which do not take effect against the Sovereign." The letter continues: "The Chancellor desires me to say that the expediency of incurring the expense of a new valuation of the wastes of the manor, which consist entirely of roadside slips, generally too narrow for building without the possession of the back land, may be a subject for the determination of the Chancellor and council, but the valuation of 1828 has always been considered a high one, an opinion which has been confirmed in several instances by the difficulty which has arisen in realising the prices, though rated at only 20 years' purchase, and by the necessity, in some instances, of making a considerable reduction, an instance of this kind having occurred as recently as the year 1847, the alternative having been either to accept such reduced valuation or abandon the duchy right, or to have the question litigated at, perhaps, a larger expense than the value of the land, such being the particular nature of the property." Against that I merely observed: "This would show the necessity of a new valuation. An error, said to exist 26 years ago, is now quoted to cover one of the present day." The letter goes on, "It is not considered that the plot of land sold to Mr. Brooks, and others similarly situated, have increased in value as stated in your letter. Houses in Cross-lane that used to be respectably tenanted have been let to inferior tenants, and others have been frequently unlet in consequence of their contiguity to the Cattle Market, one of the causes mentioned by you for their increased value." The note upon that is this: "The respectability, or rather the aristocratic inhabitants of a locality, do not, in a case where rural land is converted into premises of an urban nature, constitute its pecuniary worth, as rents of shops and wharfs are much higher than those of private residences, in proportion to the ground they cover." The letter continues: "The Chancellor is of opinion that any other mode of sale than that heretofore adopted may also be a fit subject for the future consideration of the council, but observes that it is apparent this description of property can only be of value to the owner of the back land, and that advertising it for sale by tender could only produce competition amongst persons inclined to purchase for malignant or vexatious purposes, a procedure not to be encouraged by those having the guardianship of the affairs of Her Majesty's duchy." My note upon that is this: "I specially pointed out in my suggestion, that advertising for tenders did not bind the sovereign to sell the property, but that it afforded the best means of ascertaining its value; and therefore the power would still remain with the Chancellor and the Council to exercise any judgment of equity, but with the advantage of knowing what the property was worth and would fetch, if sold in an open market. The tenders being sealed would not allow of the vexatious proceedings alluded to in the letter as likely to occur, for one party would not know what others had bid, and consequently any malicious person would not have to contend only against the proprietor of adjacent land, but against an indefinite number of other parties from any where else." The letter continues: "It appears to the Chancellor that you have mistaken the object for which the auditor's signature is affixed to the bill, preparatory to the grant, which is simply for the purpose of testifying that the same is in conformity with the minute or order of the court." My note against that is: "By statute law and charters the property of the duchy is separated from the other property of the Crown, which belongs to the State, and the management of the duchy property is a perpetual trust for the sovereign for the time being, it not being in the power of the King or Queen to convert capital into income. By the same statutes which separated the duchy property from that of the State, its management was confided to a Chancellor, and certain officers as a court, of which the auditor is one. The auditor's signature, therefore, conveys his guarantee that the proper valuation of the property has been ascertained before it is sold; and as he is the proper officer who, according to the constitution of the duchy, should exercise the check to ascertain that fact, his signature to the bills for the sale of he duchy property

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is judicial, and not simply ministerial. My exclusion from the Court has not been either legally or openly done; for, in the first place, the minute recording my appointment stated, that I should not be required to attend every meeting of the council; and secondly, on my remonstrance showing the unconstitutional nature of the proceeding, the Chancellor and council met my statement by merely saying that they did not consider it advisable that the auditor should be a member of the council." Then the letter goes on: "The certificate to the bill which, as observed in your letter, is, as well as the bill, signed by the attorney-general and auditor, simply sets forth, in a few words, what the grant is, to whom made, for what consideration, and in pursuance of what minute of the court; all of which particulars the auditor has the opportunity of ascertaining, in a very short time, by reference to the council minutes at the duchy office." This is my note: "The statement here made is totally inconsistent with the observations by the clerk of record, dated 31 January 1855, on the constitution of the duchy. To get over the difficulty arising from an unconstitutional proceeding, a confusion is here made of the two signatures of the auditor. The bill records that its grants are made with the advice of the Chancellor and council, and is signed by the attorney-general and auditor. The certificate at the foot of the bill states that it has been prepared for the Queen's signature, pursuant to a minute of the council. This also is signed by the auditor; the two are, therefore, quite distinct." The letter goes on: "I am desired to add, that the duchy being bound in honour to complete the grant which the council have agreed to make, the Chancellor must request you, after the explanation above given, to affix your signature to the bill in the usual way." The note is this: "Thus, if the other members of the council choose to compromise the interests of the Queen's estates, the auditor must confirm what they have done. If so, what is the good of the auditor's signature" The letter continues: "I am to request that you will not consider yourself debarred by any observations made above from offering to the Chancellor your suggestions or comment upon duchy matters which may come before you, and may appear to you to require correction. I am, dear sir, yours truly, *F. D. Danvers.*" The note against that is this: "What can be the use of the auditor making any suggestions or comment upon duchy matters which may come before him, and may appear to him to require correction, if, as in this and every other case of the disposal of the duchy property, the whole matter is kept secret from him by the Chancellor and council and those under them, until they have bound the duchy to sell the property to certain parties for stated sums, and thereby rendered any further consideration of the matter of no avail?"

104. *Chairman.*] Were those remarks which you have read after several paragraphs of that letter ever sent or communicated to any one?—I believe those were the remarks which were attached to the letters which I sent as enclosures to Lord Granville. I find them so in the original ones; they were remarks made when I received the documents, and to the best of my belief they formed part of the documents which I enclosed to Lord Granville; I have, therefore, read them upon this occasion.

105. Mr. *Coningham.*] Have not those agreements been made before you were at all aware of the intention of the Chancellor to sell the property?—Yes, they have.

106. *Chairman.*] That is to say, the agreements with respect to which you remonstrated in that letter to Lord Granville?—Yes.

107. Mr. *Coningham.*] When the first bills were sent to you by the clerk of the council for your signature, on the 8th June 1854, were you not asked to sign them without any previous intimation on the subject, and were you not expected to sign and return them without seeing any minute of the court authorising such sales?—I was.

Lunæ, 22° *die Junii*, 1857.

MEMBERS PRESENT.

Mr. Bramston.	Viscount Goderich.
Mr. Coningham.	Mr. J. Hans Hamilton.
Mr. Sotheron Estcourt.	Lord Harry Vane.

T. H. S. SOTHERON ESTCOURT, Esq., IN THE CHAIR.

Frederick Dawes Danvers, Esq., called in; and further Examined.

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108. *Chairman.*] YOU were requested on Friday to put in from the duchy office certain documents, namely, all those to which the signature of M. Bertolacci was affixed?—Yes; all documents of a certain description which are bills preparatory to grants in fee of the duchy property.

109. That bundle of paper which you now put in, is a bundle containing all such as you have described?—It is. (*The same were delivered in*).

Francis Robert Bertolacci, Esq., called in; and further Examined.

F. R. Bertolacci, Esq.

110. Mr. *Coningham.*] Will you read to the Committee the letter of the clerk of the council to you on the 8th of June 1854, enclosing those bills for your signature?—"Duchy of Lancaster, Waterloo-bridge, 8th June 1854." (The letter is from Mr. Frederick Dawes Danvers to me). "My dear sir, Herewith I enclose, for the favour of your signature, under that of the attorney-general of the duchy, three bills for grants in fee. The auditor's signature is required to instruments of this description by an order of the duchy court, made 6th August 1844. Please to observe that the signatures are required in places where penciled; the addition of the office being necessary only to the signatures in the former part of the bills. If you will kindly let me have them back by to-morrow morning, the Chancellor will have them ready to send to the Queen. I am, my dear sir, yours very truly, *Frederick Dawes Danvers.* F. R. Bertolacci, Esq." I wish to observe, with regard to the first part, that by the statement of the clerk of the records, on the 31st of January 1855, as the result of his researches, he shows that originally the clerk of the council used to sign the bills to certify that they were in accordance with a document previously passed by the auditor, but that in 1844 the certificate was given in a direct manner by the auditor's signature instead of by the previously indirect agency of the clerk of the council. The clerk of the records then adds, that it seemed such certificates had "been coeval with the establishment of the duchy." The effect of Mr. Danvers's letter would therefore be to mislead as to the object of the auditor's signature to bills for grants of land of the duchy. Secondly, these bills were sent to me as I was leaving the Ordnance-office, at 4 o'clock in the afternoon, without my having been informed that there was any minute of the court on the subject, or any prior intimation to me that my participation in such transactions was necessary.

111. Did you not go to the duchy office to see under what authority they had been prepared, and did you not find that there was no minute signed by either the Chancellor of the duchy or any other member of the court of council of the duchy?—I did, and the clerk of the council evinced disappointment at my not having signed the bills, and he appeared annoyed at my requiring to see such an authority before I signed them. He positively said that I should throw impediments in the way of the business if I required to see the authority of the court before I signed such documents.

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112. Did you not write to the Chancellor of the Duchy, then the Right Honourable Edward Strutt, on the 9th of June 1854, showing that the property of the duchy was parted with, as you conceived, for less than its real value?—I did so.

113. Will you read to the Committee the copy of the letter you wrote to the Chancellor of the Duchy upon that occasion?—" 5, Cornwall-terrace, Warwick-square, Pimlico, 9th of June 1854. Dear Sir, yesterday, as I was about to leave the Ordnance-office at four o'clock, I received the official box of the Duchy of Lancaster from Mr. Danvers, containing three bills, prepared to make grants of land by Her Majesty; these bills were accompanied by a letter, in which he stated that instruments of this description required (by an order of the Court, made on the 6th August 1844), the signature of the auditor, and he requested me to send them back to him this morning, that you might have them ready to send to the Queen. The bills in question were to dispose of the property in fee as annexed, and although the time and notice allowed me to inquire into the nature of the transactions, was, I think, too short; I read over the documents, and returned them this morning. Before signing them, however, I went to the Duchy office to peruse the order of council under which the disposal of the property had been directed to be made. The instruments referred to stated that they had been prepared by your order of the 2d of June 1854, but Mr. Danvers said he could not produce the formal authority with your signature, as you signed fair minutes only, and that the fair copy of those of the 2d instant were then in course of being made for your signature to-day. On my requesting to see the rough copy of the minutes authorising the disposal of the property, he read them to me, and on his assurance that those minutes had been prepared according to the directions given by you, I signed the bills as required by the order of the court of 6th August 1844, which he also read to me. Mr. Danvers said, that if I required to see the orders of the Duchy Court, authorising transactions of this nature, before I would sign the instruments, it would cause serious impediment to the business of the duchy. I cannot understand how the strict discharge of a duty is an unnecessary hindrance to the transaction of business, and I feel bound to say that I consider this matter-of-course way of calling for and affixing signatures to deeds of so important a nature subject to serious objections, for it is self-evident that the signature of the auditor to instruments affecting the power of the Queen over her property before such deeds are submitted for Her Majesty's sign-manual, conveys the fact, that due inquiry has been instituted by him to ascertain that what is therein submitted for approbation is put forward under properly constituted authority. I think that no instruments such as those alluded to in this letter, should be submitted to the auditor for his signature, until the clerk of the council is in possession of an order signed by the Chancellor of the Duchy, duly recorded in the minutes of the Duchy Court of Lancaster, sanctioning the disposal of the property in the manner contemplated. In cases where the amount of consideration money has not been fixed by an order of the council, the surveyor of the duchy should receive instructions from the Duchy Court to report the quantity, description and value of the land which it is intended to be ceded by Her Majesty. In the minute directing the surveyor to report on these points, I think he ought to be instructed to set forth in his report the grounds upon which he makes his valuation, his report and valuation should then be approved of by the Chancellor before the amount is inserted in the bills to be submitted to the Queen for Her Majesty's signature; without making the most remote reflection on the present officers of the Duchy of Lancaster, and with a view only of establishing a proper system in the conduct of the business, I wish to suggest certain fixed rules to act as official checks and guarantee to the Queen. 1st. It appears to me that hitherto the whole management of the business has been thrown on the clerk of the council, who has acted without any of those official checks which are always established where pecuniary matters are implicated. 2d. When bills are to be prepared to dispose of property—the matter in a preliminary state should be submitted to the Chancellor. By an order of the council, the subject should be referred to the surveyor to report on the extent, situation, and value of the property to be transferred; he should state the grounds on which he forms his valuation. The surveyor's report, together with all the papers on the subject, should then be read at the council, and a minute on the report itself should then be made as to its acceptance, modification,

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fication, or rejection. This minute, if the report be accepted, and the disposal of the property be approved of, should contain an order to the attorney-general of the duchy to prepare a draft of a Bill, to carry into effect the subject, as it may pass the approval of the council. This draft should then be read by the council, and if consistent with the conditions of the minute, should be signed as passed by the Chancellor, the receiver-general, or auditor. It should then be engrossed on parchment, and signed by the attorney-general and the auditor as at present, before it is submitted by the Chancellor to the Queen for signature. The draft of the Bills should then be kept in the custody of the clerk of the council for the members of the council to refer to, and especially the auditor in any matters concerning the audit of the accounts. The only check on the clerk of the council is the auditor, he should therefore attend at every meeting of the council, and be fully informed on all points decided on by the Chancellor and council. The bills referred to in this letter are as follow: 1st. To grant in fee a piece of land in Salford, to the mayor and corporation of that borough, for 130 *l.* 2d. To grant in fee the lands encroached from the manor of Halton to John Johnson and Thomas Johnson for 900 *l.*, which has been paid to the receiver-general. 3d. To grant to the North Staffordshire Railway the right to carry a railway through the manors of Newcastle-under-Lyne and the manors of Halton and Marston, and a portion of the land at Etruria, for the sums of 450 *l.* and 359 *l.* 10 *s.* The plan of the first for Salford does not show the area of the plot of land, and as well as I am able to work out the scale, it would appear to be between one-third and one-half of an acre in a populous part of the borough of Salford. The consideration-money in this instance appears to be in about the same ratio to the quantity of land as that paid for the more rural districts in the two latter cases. The Bill certainly does provide that no building shall be erected on the land so sold, but for this small sum the duchy is also precluded from using it for that profitable purpose. I am, my dear sir, yours faithfully, *Francis R. Bertolacci.* The Right Hon. Edward Strutt, M.P., &c. &c. &c."

114. Did you not, on the 30th of May 1854, examine an account of contingent or incidental expenses incurred by the clerk of the council in discharge of an imprest for 200 *l.*?—I did.

115. And you made some remarks on that account, showing the omission of any reference thereon to warrants for the several sums expended, as well as the omission of the signature of any witness to the receipts produced to you as vouchers?—I did.

116. Did you not transmit those remarks to the Chancellor on the 1st of June 1854, with the suggestion that all expenditures should receive the sanction of the court, as you had ascertained was the case in the Duchy of Cornwall?—Yes; and the Chancellor (then Mr. Strutt) gave them to Mr. Frederick Dawes Danvers, the clerk of the council.

117. Will you read the copy of your letter to Mr. Strutt, of the 1st of June 1854?—"1st June 1854. Dear Sir, Mr. Danvers has very obligingly gone through the remarks with me which I submitted to you, relating to the contingent account. Under the explanations afforded, I think there is nothing charged but what may, with perfect propriety, receive your approbation. I have no doubt but that the zeal and sense of honour and integrity by which the officers of the Duchy of Lancaster are actuated, may make them feel that the rules of audit (as applied to the passing of accounts of public money) are unnecessary in the duchy office, and probably this has given rise, in some instances, to my predecessors in office passing on their own judgment and responsibility charges, without in every instance requiring an order of the court to authorise the actual expenditure, or to cover the nature of the charge as well as the rate to be paid, as the case might be. It may have been after some conversation on these points that Mr. Bromley suggested to you, in his memorandum, that a code of regulations should be drawn up for the management of the duchy business in the office, but whether or not he looked at the matter from this position, I think it very desirable that the duties of the auditor should be clearly defined by an order of the court, and that your sanction should be given to any latitude to which, for the convenience of passing accounts, I may be allowed to admit charges without previous sanction. This latitude, if given to the auditor at all, should be to a very limited extent; and I fear that, without some regulations establishing the system to be carried out in auditing the accounts, the

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remarks I may feel myself bound by the nature of my office to make to secure uniformity of proceeding, will be erroneously construed as conveying some personal reflection on the parties rendering accounts. I have made inquiry as to what is the practice in the Duchy of Cornwall, and I find that the contingent account is in the first instance examined by the auditor, by whom it is presented to the court, and no charges are allowed without the sanction of the council. I have also taken the opinion of a most competent authority, as to the extent of discretion which appertains to an auditor giving a discharge for sums of which the disbursement has not been previously authorised; and it is stated to me that I should be departing from my duty were I to finally pass any expenditure without it having been first allowed, either by some special or general order of the court, unless you should think fit to give me an authority to admit charges under certain circumstances, which however should be exercised as rarely as possible, and which should be noted against any sums which I might so allow. I beg leave therefore to submit this delicate subject for your special consideration. I am, dear sir, yours very faithfully, *Fras. R. Bertolacci.*"

118. Viscount *Goderich.*] You mentioned a memorandum of Mr. Bromley, will you state what was the nature of that memorandum?—It was a memorandum that was shown to me by Mr. Strutt, a week previously to my appointment, when I was sent for to intimate that it was their intention to offer me the appointment. I have not a copy of that memorandum, but speaking from memory, he said that the accounts were not kept in that intelligible manner which he thought was necessary, and he suggested that some regulations should be made requiring the accounts to be remodelled, according to certain forms, and to be worked out by certain authorities.

119. Who is Mr. Bromley?—Mr. Bromley was then the Secretary to the Commissioners for Auditing Accounts. He is now the Accountant-general of the Navy.

120. Had Mr. Bromley anything to do with the Duchy of Lancaster, or was there any idea of his becoming connected with that office?—I believe Mr. Bromley had nothing to do with the Duchy of Lancaster, but I heard that he was anxious to become the auditor; however, in consideration of the intention to appoint him to the office of Accountant-general of the Navy, it was thought unnecessary to give him the additional office of auditor to the Duchy of Lancaster.

121. Mr. *Bramston.*] That was a week before your appointment?—Yes.

122. Mr. *Coningham.*] On the date when you wrote your letter of 1 June 1854, you were still unconscious of the peculiar constitution of the Duchy of Lancaster, and you thought it was similar to a Government office?—Yes, at that time I was perfectly unconscious of the peculiar office of the Duchy of Lancaster, which made it different from an ordinary auditorship of accounts.

123. Viscount *Goderich.*] At what time was it that you were not aware of the peculiar constitution of the duchy, was it at the time you wrote that letter you last read to Mr. Strutt?—I was not aware of the peculiar constitution of the duchy indeed until after June 1854, when I went to ask the clerk of the council for the minutes, that I might read through and make myself conversant with the business of the Duchy before I commenced the auditorship of the accounts. He then, upon the allegation that I was not a member of the council, refused me access to the minutes, and in consequence of that refusal I was led to inquire into the nature of the office, as in the ordinary course of events, auditors generally have free access to all the minutes which may affect the accounts of the department.

124. Mr. *Coningham.*] Will you now read your letter of the 2d of June 1854, addressed to the clerk of the council?—My letter to the clerk of the council on the 2d June 1854 was thus: "My dear sir, I find on inquiry that the mode of passing the contingent account in the Duchy of Cornwall is by the auditor first examining it, but the discharge is invariably given by the council, and the account is, with the auditor's remarks, always submitted to the court for its allowance. By this means no discharge is given by the auditor without an authority to do so. I have underwritten the account, which will, no doubt satisfy the Chancellor. Yours, faithfully, *F. R. Bertolacci.* P.S. Will you be so good as to send your messenger for the box." Duplicate certificate at foot of the contingent account. "Vouchers for the payment of the sums taken credit for in

in this account have been produced to me, and, subject to the approval of the Chancellor of the Duchy of the disbursements not previously authorised, I see no objection to this account being allowed by the Duchy Court of Lancaster, whereupon the sum of 32*l.* 2*s.* will be payable to Frederick Dawes Danvers, Esq., from the funds of the said duchy, 2 June 1854. Signed, *Francis R. Bertolacci.*"

125. *Chairman.*] Was that certificate which you have just read the certificate you affixed to those three bills, which on the 9th of June you wrote to the Chancellor, to state that you had signed?—No; this is the certificate to the incidental account, rendered by the clerk of the council, who is the accountant to the auditor.

126. Mr. *Coningham.*] Did not Mr. Danvers then write you a letter dated the 2d of June 1854, criticising the propriety of your making such remarks, and stating that the prior auditors had passed the charges without making them?—He did.

127. Will you read Mr. Danvers' letter?—"Duchy of Lancaster, Waterloo-bridge, 2d June 1854. My dear Sir, I have received back the account of contingent payments with your special certificate, which I have laid before the Chancellor, who has marked as allowed certain items against which you had made observations. Pardon me for saying, that I cannot admit that these disbursements were not previously authorized, and I am sorry, that you have thought it right to place such an observation on record; I beg to assure you that payments of the kind, besides being necessary on the face of them, have always been authorized, though it may not have been considered requisite to issue an order of court for each particular item; and that I should be extremely unwilling to admit any charge into the account which was unauthorized or unnecessary. Of the several auditors who have testified their approval of similar accounts, one (the late Sir George Harrison) had been assistant secretary to the Treasury, and was not only a most efficient, but a most vigilant officer of the duchy. It is scarcely possible that he, or indeed those who succeeded him, would have passed the accounts had they contained unauthorized disbursements." Signed, "*F. D. Danvers.*"

128. Did you not write on the 3d of June to Mr. Danvers, the clerk of the council, stating that no personal reflections against him were contained in such remarks, but if you were liable to be called to account by those who were accountable to you for the remarks you might officially find it to be your duty to make, your office as auditor would become a nullity?—That was the purport of my reply.

129. Will you read your letter of 3d of June to Mr. Danvers?—"3d June 1854. My dear Sir, Be assured in my remarks on the contingent account there was nothing intended to convey that due vigilance had not been exercised by you in making those disbursements, which on the principle of official business required the concurrence of the controlling authority; for, had I considered that any of the charges were not such as might with perfect propriety be charged to the duchy, I should not have recommended the Chancellor to pay them. The phrase 'not previously authorized' merely recorded, that some of the amounts were not supported by any minute of the court which could be quoted as my authority for admitting the charges, and that therefore their allowance by the court was necessary. In dealing with public accounts, it is a daily occurrence to find oneself called upon to examine accounts rendered by military men and persons holding the equivalent army rank to field officers, who are susceptible of the mere shadow of a reflection on their honour, but even these gentlemen, notwithstanding their susceptibility, are obliged to conform to the rules of audit, which require either a general or special authority to be obtained from the controlling power before any expenditure can be admitted, although frequently the allowance is made after the disbursement. They are, moreover, required to make a solemn declaration before a justice of the peace, that all the sums which have come to their hands have been duly accounted for. I hope, therefore, that you will see that the observations I have made on the mode of rendering the accounts, fall far short of the stringent rules I am required to enforce in the examination of public accounts, and that there was nothing personal to yourself in my observations; a fact which I have fully explained to Mr. Strutt. I trust what I have now stated may dispel any erroneous or uncomfortable feeling in your mind; but I must be allowed to remark (and I hope you will see) that if an auditor is

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liable to be called to account by the parties whose accounts he has to audit, for any observations on them which he may feel himself by the nature of his duties called upon to submit to the superior and controlling power, his office at once becomes a nullity. For these reasons I must in future be excused from entering into such details as I have in the present correspondence. But believe me to be, my dear Sir, your faithful humble servant, *Francis R. Bertolacci.*"

130. Did you subsequently receive a letter from Mr. Strutt, dated 3d of June 1854?—I did.

131. Will you please to read it?—The letter from the Right hon. Edward Strutt to Mr. Bertolacci is as follows: "24, Marine-parade, Sea Houses, Eastbourne, June 3, 1854. Dear sir, I received your letter, but had not time to answer it before leaving London; I had, however, previously looked over the contingent account with Mr. Danvers, and had given the necessary authority in those cases in which it seemed to be required. I think that I quite understand your views with respect to this account, and I do not apprehend that there can be much difficulty in meeting them. Possibly it may be desirable to make some arrangement like that which has been adopted by the Duchy of Cornwall. At all events I will consider the subject on my return to town, and will afterwards see you upon it." Signed, "*Edward Strutt.*"

132. Did not Mr. Danvers then admit the propriety of your observations?—He did so.

133. What amount is yearly expended by him for contingent payment for the duchy office, &c.?—About 400 *l.*

134. Shortly after this, did not Mr. Strutt resign the office of Chancellor, and was not Earl Granville appointed his successor?—Yes.

135. On the 21st of June 1854, was Earl Granville debtor to the duchy for a large sum on account of arrear of rent?—At the time his Lordship became Chancellor he was in arrear a considerable sum, which I can prove on the face of the books.

136. Were you then aware of that fact?—I was not.

137. When did you first ascertain that Earl Granville was in arrear of rent to the duchy?—I was first made acquainted with that fact when I was examining the receiver-general's account in September 1854.

138. Who made you acquainted with it?—Mr. Gooch, a clerk in the duchy office, who receives and pays money, and makes out the account of the receiver-general.

139. Did you on the 26th of June 1854, after Earl Granville was appointed Chancellor of the duchy, call at the duchy office and tell Mr. Danvers, the clerk of the council, that you wished to peruse the minutes of the court or council, so that you might acquire a full knowledge of the circumstances connected with the business and property of the duchy before you commenced the audit of the receiver-general's account?—Yes, that was the substance of my communication to Mr. Danvers on that date.

140. Were the minutes placed before you to read any you might choose to read, or was free access to the minutes of the court or council by which the property is managed, refused to you?—He refused me free access to them.

141. Did the clerk of the council allege, as the ground for such refusal, that you were not a member of the council of the duchy?—He did so.

142. Did not Mr. Danvers state, however, that he would show you any minutes of the court or council which it was necessary you should have to discharge your duties of auditor of the duchy?—He did so.

143. Had you any other means of ascertaining what minutes there might be on record relating to your duties as auditor, than by perusing the minutes generally, and making yourself acquainted with the orders given relating to the duchy property?—None whatever, as auditor, that I am aware of.

144. Then, in fact, did not the clerk of the council, by refusing you free access to the minutes, constitute himself a judge of the degree of information the auditor should have in checking the accounts and proceedings connected with the duchy property?—Most decidedly so; and this proceeding threw on me, who had been excluded from the council, the necessity of asking for information on a subject the existence of which I neither knew or could know of from the clerk of the council.

145. The exclusion of the auditor from the council of the duchy was, therefore,

fore, the means of restraining his functions of check, and calculated to make him subservient to those he had to check?—Yes.

146. Under these circumstances do you consider you would have been justified in passing the account of the receiver-general, in which balances varying from 5,534*l.* to 7,673*l.* were brought forward on both the debit and credit sides, and sums amounting, at least, to 3,000*l.* were included for the sale of duchy property, without having the means of perusing all the minutes to see that those sums were not less nor more than they should be debited or credited to him?—No auditor with such figures placed under his investigation could, I consider, conscientiously give a discharge to the receiver-general or any other accountant.

147. Was any other person present when the clerk of the council refused to let you peruse the minutes of the council?—No; but Lord Waterpark came in at the time and interrupted us.

148. The axe bearer?—Yes, the axe bearer.

149. Did you make any memorandum of what passed between you and Mr. Danvers, the clerk of the council, on the 26th of June 1854?—I did.

150. Mr. *Bramston.*] You say Lord Waterpark came in; did he take any part in this conversation?—No, I was sitting at the end of a long table; Mr. Danvers was upon the left facing the door at which Lord Waterpark entered; Lord Waterpark entered immediately after Mr. Danvers had refused to allow me to peruse the minutes of the council, and in consequence of his refusal I asked for the minute by which I was appointed, that I might read what was stated in it; when I was reading that Lord Waterpark came in, and walking up to the table, said to Mr. Danvers, "I wish to speak to you about that wood." Mr. Danvers immediately interrupted and said, "Oh, yes," and in a manner which conveyed to me that he wished to hush what was taking place. I understood by the manner in which he addressed Lord Waterpark, that he wished to speak to him privately on that subject. Lord Waterpark never mentioned another word during the time he was in the room (which was some minutes before I left), upon the subject upon which he came to speak to Mr. Danvers.

151. Mr. *Coningham.*] You have stated what Lord Waterpark said, but you did not state what Mr. Danvers said in reply?—I then remained for some time reading the minute, and the conversation which transpired between Lord Waterpark and Mr. Danvers was not evidently upon the subject to which Lord Waterpark came to speak to him, as no reference was made to the wood which he first introduced in his conversation. This led me to believe that there was something which as auditor I ought not to hear; and it made me still more vigilant in trying to ascertain what the subject was, and for that reason I thought it was necessary I should more than ever be admitted to a free access to the minutes.

152. Did you make any memorandum of what passed between you and Mr. Danvers, the clerk of the council, on the 26th of June 1854?—I did, and I transmitted a copy of it to him; I also made a private memorandum a little more in detail of what transpired on the subject, to keep my recollection clear on the matter.

153. Did Mr. Danvers admit the correctness of the memorandum you sent him?—He did, in substance, though he made some short amendment to it.

154. *Chairman.*] Will you be so good as to explain what you mean by saying that he admitted the correctness of it in substance?—The most of the memorandum was admitted, but there was an amendment to it, which I considered not material as far as the substance of the memorandum went.

155. Do you mean that Mr. Danvers returned the memorandum to you?—He returned a copy of that memorandum with his amendment.

156. Mr. *Coningham.*] Will you read to the Committee your letter and memorandum dated 26th of June 1854, and Mr. Danvers's reply of the 28th of June 1854, and the memorandum which accompanied it?—26th of June 1854, Mr. Bertolacci to Mr. Danvers. "Dear Sir, I beg leave to enclose for your perusal the copy of a memorandum of what transpired at our interview to day, and I shall be obliged by your informing me whether the same is, in your opinion, correct. I am, dear sir, yours truly, *Francis R. Bertolacci.* Frederick Dawes Danvers, Esq., Duchy of Lancaster." "Memorandum, 26th June 1854. I to-day called at the Duchy of Lancaster office and informed Mr. Frederick Dawes Danvers that I wished to peruse the minute-book of the duchy before auditing the receiver-general's accounts, in order that I might have a full

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knowledge of any circumstances connected with those accounts, and the business generally relating to the property of the duchy. Mr. Danvers declined to let me peruse the minutes, alleging that they were only open to members of the council. I then asked him if I was not a member of the council *ex officio*, and reminded him that he had administered the oath to me not to divulge the secrets of the council; to this question he replied that I was not a member of the council; that I was not entitled to peruse the minutes; but that if I wanted any particular minute for any payment of money, that I could ask for it. At my request he gave me the minute to read, in which my appointment was recorded, which noted the fact, that on the 15th of May 1854, I had had the oath administered to me. *F. R. Bertolacci.*" Mr. Danvers to Mr. Bertolacci, "Duchy of Lancaster, Waterloo-bridge, 28th of June 1854, Dear Sir, When your note was brought me yesterday, I had more matters of business before me than I could well get through in the day, I hope you will therefore pardon the little delay that has occurred in sending you an answer. The memorandum which accompanied your note is not, I think, quite correct; I have therefore drawn the enclosed, in which I have adhered to your own words, except when they appeared to me to require alteration, in order to represent the matter in its true light. I think the state of the case would have been rendered still clearer, had you, in referring to the minute of the 15th May, as noting the fact of your having been sworn in as auditor, also quoted that part which recorded your having been informed that you would not be required to attend the meetings of the duchy council, unless specially summoned thereto on business connected with your said office. Having said thus much as to my opinion which you asked me for with respect to the correctness of the memorandum, I would earnestly request you to dispel from your mind any notions (if you entertained them) that I have been actuated by any personal feelings towards yourself, in taking the course I did when you asked me to look through the council minutes. I beg to assure you unequivocally that such was not the case, and in informing you that these minutes were not considered open to general inspection, I told you that which I should have told anybody else under similar circumstances. Part of the oath taken by the Chancellor himself, is to 'keep secret all things communed in the council, and them not to disclose or make overt, but only to the Queen's own person, or to such others of the same council as his wisdom should think expedient,' which would imply that even members of the council have only a modified right of inspecting the minutes or proceedings of the court, though of course I, as clerk of the council, and having the custody of these minutes, am ready, as in duty bound, to produce them to any one under the order of the Chancellor of the duchy. Had our conversation not been interrupted when you were here, I could have then explained the above, As it is, I am glad you have afforded me the opportunity of doing so now. I am, dear sir, yours faithfully, *Fk. Dawes Danvers.*"

157. *Chairman.*] Does the amended memorandum vary materially from the one you have read?—I do not think it does in substance; it is this: "Memorandum, 26th of June 1854. I to-day called at the Duchy of Lancaster Office, and informed Mr. Frederick Dawes Danvers that I wished to peruse the minute-book of the duchy, that I might have a knowledge of the business generally relating to the property of the duchy. Mr. Danvers stated that he was not at liberty to show me other council minutes than those relating to my duties of auditor, but that any minute I might wish to refer to relating to those duties of course would be shown to me, alleging that the minute-book was only open to members of the council. I then asked him if I was not a member of the council, *ex officio*, and reminded him that he had administered the oath to me not to divulge the secrets of the council. To this question he replied that I was not a member of the council, and that the oath I took, to keep secret all things I should hear spoken and communed in the council, referred to any council at which I might be required to attend. At my request he gave me the minute to read in which my appointment was recorded, which noted the fact, that on the 15th of May 1854, I had had the oath of auditor administered to me, and I signified my having been informed that I should not be required to attend the meetings of the duchy council unless specially summoned thereunto on the business connected with my said office." I omitted to state a fact with regard to what took place when Lord Waterpark entered. As soon as Mr. Danvers had addressed

addressed Lord Waterpark, he turned round and said, "This is Mr. Bertolacci, our newly-appointed auditor," and after that there was a perfect silence upon the subject which Lord Waterpark had evidently come to speak to him about.

158. Lord *Harry Vane.*] Nothing further transpired with respect to the wood than what you have already stated?—Nothing whatever.

159. *Chairman.*] Do you infer that because they ceased to speak about the wood, Lord Waterpark or Mr. Danvers wished that the subject should be hushed until you were out of the room?—In making use of the word "hushed," I did not wish to cast any particular imputation; but certainly the manner in which Mr. Danvers spoke to Lord Waterpark, and immediately following said, "This is Mr. Bertolacci, our newly-appointed auditor;" and the total silence upon the subject with regard to which Lord Waterpark had come to speak to him, connected with the refusal of the clerk of the council to give me free access to the minutes, conveyed to my mind that there was something which the clerk of the council did not wish me as auditor to be acquainted with; and, as I conceive that the auditor should be acquainted with every circumstance connected with the property of the duchy, I felt it my duty to be still more particular in ascertaining what the subject was, if I possibly could, by having free access to the minutes.

160. Supposing it was right that you should be acquainted, as auditor, with every transaction connected with any part of the property of the duchy, does it strike you as a strange thing that any gentleman coming into the room where you were engaged in conversation with the clerk of the council, finding you there, should have suddenly ceased to talk upon any matter which he might have come in to talk about to the clerk of the council?—The clerk of the council introducing Lord Waterpark to me, stated him to be the axe-bearer, and, as such, I was aware that there were certain duties connected with the forests and the woods belonging to the Duchy of Lancaster, and some of the accounts which I had to examine were of a very intricate nature with regard to the woods of the Duchy of Lancaster, and therefore I thought it my duty not to leave any opportunity dormant by which I could penetrate into whatever the circumstances were connected with those woods and forests.

161. Viscount *Goderich.*] How long did you remain in the room after Lord Waterpark came in?—Speaking from memory, I should think a quarter of an hour to 20 minutes.

162. Did you leave Lord Waterpark there when you went away?—I left Lord Waterpark in the room with Mr. Danvers.

163. Do you remember what was the nature of the conversation which passed between Mr. Danvers and Lord Waterpark other than that which you have detailed?—The common incidents of the day.

164. When you were introduced to Lord Waterpark, did he make any remark to you?—No; he merely bowed, and I returned his bow.

165. *Chairman.*] Do I rightly understand you to say that you think that the sudden ceasing of the conversation about the woods between Lord Waterpark and Mr. Danvers upon Lord Waterpark's ascertaining that there was a third party in the room, is a ground of suspicion that something was wrong?—Lord Waterpark's hearing I was the auditor, and the marked manner in which Mr. Danvers spoke to him, stating at the same time, "Oh, yes, I wish to speak to you upon that subject," certainly conveyed to me that there was something which they did not wish me, as auditor, to hear; certainly that was my impression.

166. Is your answer to my former question yes or no?—I think, with all due deference, that it is hardly fair to ask me to commit myself to a fact of which I have not a pre-knowledge.

167. It is not a question of fact; I ask you whether your opinion is that the circumstance which you have related formed a ground of suspicion that something was amiss?—What passed in my mind was that there was a desire to conceal from me something which I, as auditor, ought to know; that is exactly what passed in my mind; more or less I cannot vouch for.

168. Lord *Harry Vane.*] You had no other ground for that impression, except that particular circumstance which you have already mentioned?—No, none whatever.

169. Viscount *Goderich.*] Were you aware at the time, or have you subsequently become aware, what was the particular subject to which Lord Waterpark alluded to in those words which you have mentioned?—From the examina-

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tion of the accounts which subsequently took place, I think it had reference to Need Wood.

170. Lord *Harry Vane.*] By your subsequent examination of the accounts, did you find any circumstances in relation to Need Wood which justified suspicion that there was something wrong in the transaction?—No; I do not think there was anything wrong in the transaction from what subsequently took place; but certainly by what I found to be the mode of the accounts with regard to Need Wood, the management of the woods showed me that there was a laxity of principle in the rendering of the accounts.

171. *Chairman.*] Do I then properly understand you to mean, that the sudden suspending of the conversation between Lord Waterpark and Mr. Danvers gave rise in your mind to a suspicion that it was not desired by those parties that you should become acquainted with all the transactions about which Lord Waterpark came to speak to Mr. Danvers?—Most decidedly, that was the impression made upon my mind by the manner in which Lord Waterpark was addressed by Mr. Danvers, and by Mr. Danvers suddenly turning round and introducing me as the newly-appointed auditor, and subsequently by no conversation upon the subject of the wood transpiring during the time that I was in the room.

172. You do not mean to imply that either then, or upon subsequent examination, anything has come to your knowledge which would give rise to a suspicion that the transaction between Lord Waterpark and the duchy was one of a corrupt nature?—No, decidedly not.

173. Mr. *Coningham.*] Is not Mr. Danvers, the clerk of the council, accountable to the auditor for sums which he receives as imprest (that is to say, sums handed to him by the chancellor and council, or by the receiver-general, that he may make sundry unforeseen payments); is he not also accountable for fees that he receives which are payable to the duchy, and for monies arising out of the distribution of grants by the Queen of escheated property, for which distribution he has been constituted by the Chancellor and council the sole trustee?—He is the accountable party to the auditor for those various accounts which he receives.

174. *Chairman.*] Is he not accountable in the first place to the Chancellor?—No; my patent as auditor makes all parties accountable to me.

175. Mr. *Coningham.*] Was it possible for the auditor to exercise a proper check on the due rendering of an account of these various monies, without the free perusal of all the minutes of the duchy, or whilst the clerk of the council himself exercised the power of deciding what minutes related to the auditor's duties, and what minutes were to be withheld from him?—It was not possible, and the assumption of those powers by the clerk of the council was, I conceive, unconstitutional and inconsistent with his relative position to the auditor.

176. Did you not write to Earl Granville on the 17th July 1854, asking for a private interview?—I did so.

177. Will you read the copy of that letter?—"Mr. Francis Bertolacci presents his compliments to Earl Granville, and as he is anxious to have a private interview with his Lordship on the business of the Duchy of Lancaster, he hopes he will do him the honour to appoint a time when he may wait on him for that purpose."

178. Did Earl Granville make any reply to that letter?—I received no reply.

179. A week after, on the 24th of July 1854, did you not again write to his Lordship repeating your request?—I did.

180. Will you read the copy of that letter?—"Mr. Francis Bertolacci has the honour to present his compliments to Earl Granville, and, as his Lordship has not replied to his note of the 17th instant, he fears it may have miscarried. Mr. F. Bertolacci takes the liberty to state that his object in writing was to consult his Lordship on some points of importance connected with the discharge of his duty as auditor of the Duchy of Lancaster."

181. When was it that any notice was taken of your letters to Lord Granville?—On the 28th of July 1854.

182. And then was it not through the clerk of the council?—Yes, on the 28th July 1854 the clerk of the council wrote to me thus: "My dear sir; The Chancellor of the Duchy desires me to inform you that he shall be happy to

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see you at his house in Bruton-street (No. 16), to-morrow morning, at half-past 11."

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183. At your interview with Earl Granville, on the following day, the 29th of July 1854, did you not acquaint his Lordship with the following facts, namely, first, the refusal of the clerk of the council to allow you free access to the minutes. Secondly, the peculiar functions of the auditor of the Duchy of Lancaster, which required him to sign bills for the sale of the duchy property. Thirdly, that by the charters of the duchy, as well as by the auditor's oath, he appeared to be, by virtue of his office, a member of the council of the duchy; and, fourthly, that unless you were allowed to exercise the powers of your office you could not properly check and sign the documents to which you were required to attach your name?—Yes, all those points were explained by me to Earl Granville, on the 29th of July 1854.

184. Did you not, by Earl Granville's desire, commit the substance of your conversation with him to paper, so that he might consult the council; and did you not send a statement of it to his Lordship, in a letter on the 4th August 1854?—I did.

185. Will you read that letter, and the statement enclosed in it?—The letter is dated the 4th of August 1854: "My Lord; I have the honour to lay before you in writing a statement of those facts to which I alluded at the interview I had with your Lordship, and I have to apologise for the delay which has occurred in transmitting it; but my duties at the Ordnance have been onerous in consequence of the absence of other gentlemen of the department, and I have with difficulty been able to read or write by candle-light. On the subject of the statement, I will only add, that I do not think if Mr. Strutt had been fully aware of precedent, and had foreseen the effects of altering the position of the auditor, that he would have assented to it. I also take the liberty of forwarding to your Lordship the two last bills which have been sent to me for signature, before I attach my name to them, that you may see the nature of the documents I have to sign, with the imperfect information which I am able to obtain under the existing restrictions placed on my office. With reference to the property intended to be transferred, I have only to observe, that in the case of the land to be sold to the St. Helen's Railway Company, I cannot see why Her Majesty should not have the same advantage which one of Her subjects would derive by the increase in value which property experiences from those incidents occasionally happening to enhance it, and that the sum of 850*l.* for 10¼ acres of wharfage for a railway in the locality of so great an importing and exporting town as Liverpool, and in the manufacturing county of Lancashire, appears to me to be much less than the real value; while by the letter of Captain Evans, which was shown to me, his valuation did not appear to have been made upon a consideration of these circumstances. In the case of the house, with offices, outbuildings, and about seven acres of land, to be disposed of to Mr. Boardman, for the sum of 663*l.* 10*s.*, I can offer no opinion, as on my asking at the duchy office to see the valuation papers by which the amount had been regulated, I was told they could not be shown to me, as one of the clerks had them in hand in the office, to enter the particulars in a book; judging, however, from the expense of erecting a house at the present high price of building materials, I must conclude that the house in question is either very much dilapidated, or very small, or that the land is of an indifferent or unproductive kind. I have the honour to be, my Lord, your Lordship's most obedient servant, *Francis R. Bertolacci.* The Right honourable Earl Granville, &c. &c. &c." The document is copy of statement dated 4th August 1854, enclosed in letter of same date to Earl Granville, by Mr. Francis R. Bertolacci: "From the various charters of the Duchy of Lancaster, it appears that the government of the duchy was confided exclusively to a council which consisted of its chancellor, its attorney-general, its receiver-general, and the auditor, and that none of these officers were ever excluded from the council. The council, thus constituted, would appear to have formed a board of trust for administering the revenues of the duchy for the crown, as even the Sovereign has only a limited power over the property. Before Mr. Strutt communicated personally with me, I learnt that His Royal Highness Prince Albert took an interest in the affairs of the duchy. When Mr. Strutt first sent for me, he referred to some communication which had passed between himself and Mr. Bromley, the secretary to the Commissioners for Auditing Public Accounts, as to the mode in which the accounts of the duchy

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ought to be kept, and he said he wished me to consider whether some better plan could not be adopted than the one in operation; he also informed me that the previous auditor, although a gentleman of great literary attainments, had not the necessary qualification for an auditor, and that indeed he had held the office as a sinecure, but that in future it was desired that an efficient audit should be performed. At this interview Mr. Strutt stated that Mr. Lockhart, the person referred to, had been a member of the council. He then acquainted me with the intention which was entertained of appointing me auditor of the duchy; but he said that I should not be required to attend the meetings of the council, unless specially summoned. Being then a perfect stranger to the affairs of the duchy, and to the peculiar duties which appertain to its auditor, beyond those of the usual auditing of accounts, Mr. Strutt's communication conveyed to my mind that Mr. Lockhart was a member of the council, not by virture of his office of auditor, but as an exception to the rule; nor was I aware at the time that the restriction proposed to be made was at variance with all precedent; that it would disarm me of the requisite powers for discharging the duties of my office; and that indeed, on accepting the office of auditor to the duchy on these terms, I was consenting to relinquish that of which I had not the power of divesting it. On the 15th of May the oath to be taken by the auditors was administered to me at the duchy office, before the Chancellor, by which oath I was required to keep secret all things I might hear at the council. On the 26th of June, when I informed Mr. Strutt, in the lobby of the House of Commons, that the clerk of the council had refused to allow me to peruse the minutes, in consequence of my exclusion from the council, he reminded me of his having told me that I should not be required to attend the meetings of the council, and he added, that he had specially mentioned it to me, as there were doubts whether, as auditor, I would not belong to the council. As the affairs of the duchy are distinct from those of the other public departments, the checks which are exercised in the receipts and expenditure of the state, by the business passing through different departments responsible to Parliament, in the case of the duchy, devolve on the auditor, who ought therefore to be privy to every incident connected with the property of the duchy. As auditor, I am required to sign the bills advising the Queen to give Her Royal assent to the sale of property in consideration of sums paid, or to be paid, as the case may be, for such property; yet by my exclusion from the council, I am precluded from making any inquiry into the nature or extent of the property to be disposed of, or from giving my opinion as to the amount of the consideration money to be inserted in such bills, or from offering any advice or assistance to the Chancellor before the minute is prepared by the clerk of the council for his signature, and these bills have been sent to me to sign without my having had any previous intimation of the transactions to which I have thus been called upon to give the testimony and guarantee of my signature, previous to their being submitted for the Sovereign's approval." Against that there was this note: "Three bills were sent to me by the clerk of the council on the 8th June, without prior information, to sign and return them, in order that they might be sent to the Queen for Her Majesty's assent the following morning; and, on my declining to sign them before seeing the minute of the Chancellor of the duchy under which they had been sanctioned, I was told by the clerk of the council that if I required to see the minutes authorising bills of this nature before signing them, it would be attended with serious inconvenience and impediments to the business of the duchy. Although the sale of the property had been sanctioned by the Chancellor, the minute had not been signed by him, and I was expected, under these circumstances, to sign the bills at the request of the clerk of the council, without further evidence." Then the letter goes on to say, that my duties are, secondly, "To give discharges to accountants, and to audit the revenue and expenditure of the duchy," yet (on the alleged ground of my not being a member of the council) I am debarred from a free perusal of the minutes of the duchy, to ascertain whether, during the period when the duties of audit were avowedly neglected, all the sums which should have been paid to the account of the receiver-general were accounted for, whether all the sums drawn by way of imprest have been duly authorised and carried to the debits of the accountants, and whether the various and divers sources of income arising out of transactions which had been authorised by the Sovereign and council at different times have been correctly brought forward to the revenue of the current year." Against that I made this note: "See memoranda, 26 June 1854,

1854, of the conversation between the clerk of the council and myself, showing that I am entirely dependent on the person who may hold that office for a knowledge of the minutes which have been made at the council, and that I must at present rely on his judgment as to what minutes may concern my duties as auditor, thus depriving me of the independence which belongs to the office, and placing me in the power of the clerk of the council, who is an accountant. By this means the party who may be clerk of the council, and who has to collect the data upon which leases, sales, fines, &c.. are decided, is constituted the sole adviser of the Chancellor, with a knowledge of the details of the duchy, and at the same time an unchecked power is put into his hands of admitting or preventing the inquiries of the auditor by the exclusion of that officer from the council." The letter goes on, thirdly, "To examine, with the clerk of the council, into the security taken from the officers of the duchy, and report to the Chancellor whether it is sufficient, while by my being excluded from the council, I am precluded from knowing the property of the duchy which may, under orders of the Chancellor and Council, be entrusted to those officers. By my exclusion from the council, the clerk of the council or the clerk acting immediately under his direction, becomes the organ of the council, through which alone I can obtain any information respecting the decisions which may be come to about the property of the duchy, and I must also rely on the judgment of these officers for the extent of information which (as auditor) I am to be considered entitled to, while (in consequence of the duties of the receiver-general being performed by deputy) the accounts rendered by those gentlemen, and not by the receiver-general, are those which I have to examine and discharge. For the reasons herein stated it appears to me to have been a matter of necessity that the auditor should (for the free and efficient discharge of his duties) have been a member of the council, as without this provision the system of account and audit must have been imperfect in the duchy, according to the constitution of its staff. If any changes are to be made in the position and duties of the officers, they should not be partial but comprehensive, so that the business of the duchy may not be subject to the risks of a broken system, but have the benefit of a well considered and matured scheme for the future conduct of its affairs. To effect this object it would be necessary to have an Act of Parliament, but this could not be obtained before the next Session, and I think that the Legislature ought not to be called upon to interfere in an institution of such antiquity, without evidence being first collected by a Committee of the House of Commons to form the basis of a sound enactment."

186. Until the 20th November 1854, were you not debarred from the free perusal of the minutes of the council, and were you not informed by a letter of the clerk of the council on that day, that henceforth you might have access to the minutes?—It was not until that date that I received his letter of the 20th November.

187. Will you read to the Committee the part of that letter from the clerk of the council on the subject of your henceforth having access to the minutes?—On the 20th November 1854, the decision was come to upon the subject which I had raised in August 1854.

188. *Chairman.*] By whom was the decision come to?—By the council. I was not informed till the 20th of November 1854 of the decision of the council upon the subject which I had placed before Earl Granville on the 4th of August 1854, and on that date the clerk of the council wrote to me as follows: "I beg also to acquaint you that, it being thought desirable that the minutes of the council should be open to the inspection of the auditor in the prosecution of his duties, it has been ordered that the auditor should henceforth have access to the same."

189. In the interval between the time when you made application to Earl Granville, and the time when you were informed that you might have access to the minutes of the council, were you called upon in your office as auditor to certify several bills?—I was called upon to certify bills.

190. In many cases?—It is a fact that I certified some.

191. Consequently you were called upon then to perform a certain duty which, according to your view, and according to the view which you now wish to impress upon the Committee, you had not the means of doing for want of access to the minutes?—Yes.

192. Mr. *Coningham.*] Did you not write to the clerk of the council (Mr. Danvers) on the 20th November 1854, asking him on what day it was that the

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chancellor (Earl Granville) had met the other members of the council; and did not Mr. Danvers reply, on the 21st November 1854, that it had been on the 14th of that month, and that the other members of the council present were the attorney-general of the duchy, the receiver-general, Mr. Strutt, Colonel Phipps, and the vice-chancellor of the county palatine?—On the 20th November 1854, I wrote to Mr. Danvers, and I said: "I have to-day, for the first time since last Tuesday, been able to leave home from a cold on the chest, and as I cannot go to the Duchy Office to peruse the minutes until late in the afternoon, on leaving the Ordnance Office, perhaps you will save me the necessity of doing so by being so kind as to inform me on what day the chancellor (Earl Granville) met the other members of the council, and who were present." Mr. Danvers states, on the 21st November 1854, "In reply to your inquiry contained in your letter received this morning, I beg to acquaint you that the day on which the council met was the 14th instant, and that there were present, besides the chancellor, the attorney-general, the receiver-general of the duchy, Mr. Strutt, Colonel Phipps, and the vice-chancellor of the county palatine."

193. Then in fact Earl Granville did not bring your statement of the 4th August before the council until the 14th November 1854?—I am not aware that he did, and certainly no intimation was made to me to lead me to believe that that had been the case.

194. Did not the receiver-general at a later date point to the space of time between the above dates as that when you should have passed his account for the prior year?—Yes; and he sought to throw on me the onus of the delay.

195. Did the clerk of the council make any intimation to you on the 20th November 1854, of any notice having been taken by the council of that part of your statement of the 4th August which related to your exclusion from the council?—No, he did not; he made no intimation to me of any notice having been taken of that part of my memorandum which related to my exclusion from the council.

196. *Chairman.*] Are you aware whether any council was held in the interval between the 29th July and the 20th November?—I do not think that any council was summoned by Earl Granville between those dates; I cannot say positively whether there was or was not, but I do not believe that he summoned any council.

197. Mr. *Coningham.*] Was it until the 4th December, 1854, that Earl Granville intimated to you that he and the council still maintained their resolution of excluding you from the council?—I believe it was not till that date that Earl Granville made any intimation to me upon the subject.

198. Will you read what Earl Granville stated on this subject to you in his letter of the 4th of December, 1854?—This is an extract from the letter which was written to me by Earl Granville on the 4th of December, 1854: "We discussed very fully at the council, whether it would be right that the auditor should have a seat there, and we were unanimously of opinion that the nature of the office made it desirable to keep it as independent as possible of the deliberative and executive departments of the duchy." I would wish, in reading this paragraph, to make an observation. By this part of Lord Granville's letter it is made to appear that the question under discussion at the council was, whether the auditor should be allowed a seat at the council which he had not previously had at it; but the fact of the case is, that the auditor always had a seat at the council, and that a deviation, in my case, for the first time was made. The question, therefore, was not whether it was desirable to keep the auditor as independent as possible of the deliberative and executive departments of the duchy, but whether it was desired by Earl Granville, the Chancellor, and General Fox, the Receiver-general of the Duchy, that I should not be present at the discussions respecting the extent, value, and particulars relating to the duchy property, which all my predecessors, auditors of the duchy, had been admitted to, and which particulars were alluded to in my statement to Earl Granville on the 4th of August 1854, with reference to the documents I was called upon to verify by my signature. I wish to bring that particularly under the notice of the Committee, because it has been represented that I was putting up claims to that which the auditor had not before enjoyed.

199. *Chairman.*] Will you put in the whole letter from Earl Granville to you?—"London,

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—"London, December 4th, 1854. My dear Sir,—After the communication which I received from you on the subject of the discharge of your duties as auditor of the duchy, I saw both Sir Charles Trevelyan and Mr. Strutt. The former told me that the Ordnance had consented very reluctantly to the arrangement made on the occasion of your appointment; that it was quite useless my applying for a longer leave of absence from the Ordnance; and that in his opinion, that with your powers of application, it was quite possible to get through the duchy work, concurrently with your Ordnance duties. We discussed very fully at the council whether it would be right that the auditor should have a seat there, and that we were unanimously of opinion that the nature of the office made it desirable to keep it as independent as possible of the deliberative and executive departments of the duchy. I am, my dear Sir, yours sincerely, *Granville.*"

200. Mr. *Coningham.*] Were the minutes of the court or council entered in a book at the time they were made, or on loose sheets of paper?—They were on loose sheets.

201. Did the minutes of a council commence by recording the date of the preceding minute, or were they confined wholly to the subject of the day?—Except when the subject introduced at the meeting of the council was continued from a previous meeting; I believe no allusion was made at the heading of the minutes to the previous council day.

202. *Chairman.*] Is not it the almost universal way in which these things are done in any institution or company, that a sort of rough copy is made, and it is afterwards inserted in the minutes?—I believe that in companies, as far as my knowledge goes, it is always usual to record on the minutes of the day the date when the last Board met; and I also believe that in some companies there are bye-laws which require the accounts and minutes of the previous meeting to be read and to be confirmed.

203. Viscount *Goderich.*] Were not the minutes to which you had access the fair minutes?—Yes.

204. *Chairman.*] Had not the fair minutes a heading to each minute of the date at which the transaction took place?—I believe that in every case the minutes had reference to the date to which they belonged, but not to the previous day of the meeting of the council, except in those special cases where it was necessary to record some previous transaction.

205. Lord *Harry Vane.*] Did not the minutes of any meeting state that they confirmed the minutes of the previous meeting?—I believe it was only done when some subject had been commenced at a previous meeting, and was confirmed or continued at a subsequent meeting, that is to say, when the proceedings of one meeting were not finished; but when the proceedings were finished at a meeting, I believe there was no reference in the subsequent minute to what had transpired at the previous meeting.

206. *Chairman.*] Do you mean, that you had no means of knowing whether any meeting took place in the interval between any two of the dates of which the minutes were submitted to you?—That I believe to be the case.

207. Is it reasonable to suppose, that when minutes are copied out into a fair book, and that belongs to a public office, there should have been a minute suppressed between any two of the dates of the minutes; do you suggest that such a thing might have taken place?—It left the possibility of my not seeing minutes which might have been made between the dates. Then I know as a fact, that in public departments, sometimes minutes are made which are not entered in the fair minutes.

208. Viscount *Goderich.*] Then the practice to which you are now alluding, is one which exists not only in the Duchy of Lancaster Office, but in other public departments?—Yes.

209. Did I rightly understand you to say that the minutes in the fair minute book were signed by the Chancellor, or the chairman of the council?—Speaking from memory, I think they were.

210. Then were those fair minutes drawn up upon the day upon which the Council to which they referred was held, or were they drawn up subsequently?—They were drawn up subsequently.

211. Were they signed at the next council meeting, or were they signed privately by whoever occupied the chair at the meeting?—It is impossible for me to state positively what may have transpired when I was not there; but from circumstances which have transpired, I believe that frequently the Chancellor

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came to the office and signed, without there being a formal council or anybody else there besides himself and the officers of the duchy.

212. You mean that he signed the minutes of the previous council?—I believe so.

213. Was it a book which you saw in which the minutes were copied?—I think that on one occasion I saw a book, but the minutes which were exhibited to me, and upon which I was called upon to sign the bills for the alienation of the property, were upon loose sheets of paper.

214. Then they were not the fair minutes?—It depends upon what you consider a fair minute. They were the minutes that were drawn up and signed by the Chancellor, and therefore they were official, because I never admitted a minute without it had been signed by the Chancellor, except in the first case, when I wrote especially to the Chancellor to tell him what I had done; in every other case I saw the minutes before I acted upon them. At that time I was quite new in the office, and I signed upon the assurance of the clerk of the council that the rough minute was one which Mr. Strutt had admitted, and, as a matter of precaution, I wrote a letter to the Chancellor explaining my views upon the subject.

215. Then the Committee are to understand that the minutes which you saw signed by the Chancellor, were very frequently upon loose sheets of paper, and were not entered in a book?—Quite so.

216. Mr. *Bramston.*] It was subsequent to the 20th of November, when you were told that you were to have access to the minutes?—Both prior and subsequent. The clerk of the council always told me that he would give me the minutes which he received relating to particular matters, and when I was called upon to sign a bill I invariably asked for the minute sanctioning the bill.

217. *Chairman.*] Will you explain to the Committee in what circumstance you found yourself with regard to those minutes after the date of the 20th of November, when you were told that you should have access to them?—Subsequently to the 20th of November, the minutes being as heretofore upon loose sheets of paper, and as the minutes did not invariably commence by stating the previous day upon which the council had sat, I consequently had not, by the minutes before me, evidence that no council had sat between the former and the latter. This is essential, in my opinion, for the auditor to know, inasmuch as the accounts of the Duchy of Lancaster are not upon the same principle as other accounts are; that is to say, without being able to continue consecutively every order of the Chancellor and council, there is no proof that everything that ought to be brought to account has been brought to account. Minutes may be produced to show that a disbursement has been duly authorised; that another sum, the receipt of which ought to be received, has been received; but still it is possible, under such a system, that amounts might not have been brought to account that ought to have been brought to account.

218. Did you make any representation to the clerk of the council of the insufficiency of those minutes so presented to you?—I cannot recal to mind that I made a formal representation to the clerk of the council, but I think that in the various correspondence which I had with the Chancellor that was sufficiently shown in principle, though whether or not in positive words I cannot call to mind.

219. I wish to ascertain whether you did your best to obtain that sort of knowledge which you considered to be indispensable for the performance of your duties?—I consider that in the various communications which I had with the Chancellors upon the subject, I did my best to discharge those duties.

220. Viscount *Goderich.*] Had you ever any reason to suppose that you had not seen the minute of any particular council; that the minute of any given council had been left out and not communicated to you, when you thought that it ought to have been so communicated?—No, I cannot say that I ever had any reason to suppose that, inasmuch as unless there was some proof, I could not have any knowledge upon the subject.

221. You never had any reason to suspect that it was so?—No, I cannot say that I had any reason to suspect that it was so; if I had, I should have elicited the fact by some subsequent proceeding.

222. *Chairman.*] Does not your present allegation amount simply to this: that you can conceive of a better mode of keeping the minutes than that which was actually made use of in the duchy, and one that would give a more consecutive view of the transactions; but that, so far as your evidence was concerned,

you

you are not aware but what the whole was laid before you that was necessary for the performance of your duties?—Quite so.

223. Mr. *Coningham.*] In the interval between the 4th August and 20th November 1854, when you were (with Earl Granville's knowledge) prevented from having free access to the minutes of the court, were you not called upon by the clerk of the council's letters of 7th August and 25th August to sign a bill for sale and a lease for the letting of duchy property?—I was.

224. On the subject of these sales of property did you endeavour to obtain any information at the Treasury as to whether the auditors there were in the habit of questioning the valuations by the surveyors of Crown lands, when they were parted with, so as to form a guide by analogy for what you should do in the case of duchy property, of which you were the auditor?—Yes; I applied to Mr. Stephenson on the subject, who was then the principal assistant of the Secretary of the Treasury, and he informed me that the auditor to the Treasury zealously scrutinises the valuation of everything connected with the sales of Crown lands.

225. Mr. *Bramston.*] When did you write to Mr. Stephenson; was it prior to the 20th of November?—Yes, I think so.

226. Mr. *Coningham.*] You have shown by Earl Granville's letter of 4th December 1854, which you have read to the Committee, that it was on that day that his Lordship informed you of his having, with the council of the duchy, considered your statement of the 4th of August 1854, representing that you ought not, while excluded from the council, to be called upon to sign the bills, &c., for the sale of the duchy property; was it not on the 28th November 1854 that the clerk of the council transmitted a bill to you for your signature to the sale of some property, stating in his letter that the minute authorising the bill to be prepared was dated the 25th of that month?—Mr. Danvers, upon the 28th of November, stated in his letter to me, "I beg to submit for your signature a bill preparatory to a grant in fee to Edmund Chaloner, esq., of some cottages and gardens near the roadside, in the township of Oldcoates, in the county of Notts. The minutes for this grant are of various dates, but the final one, directing the bill to be prepared, is dated the 25th instant. The valuation by the duchy surveyor of this property amounted to 158*l.*; but 200*l.* having been offered for it on the part of Mr. Chaloner, to whose land it is contiguous, the duchy court accepted Mr. C.'s offer."

227. It appears that the purchaser offered nearly a fourth more than the valuation placed on the property by the surveyor-general of the duchy; did you, on the 4th December 1854, write to Mr. Legard, the surveyor-general of the duchy, to ascertain with what degree of information he had valued the property at so low a rate, compared with what had been offered for it?—I did.

228. Will you read the letter which you wrote to Mr. Legard on the 4th December 1854 on the subject, and his reply to you?—On the 4th of December 1854, I wrote to Mr. Legard as follows: "Sir, I beg leave to enclose some queries with reference to the 2 roods 17 perches of land, containing seven cottages, and situated within the manor of Styrrup, and in the township of Oldcoates, Nottinghamshire, which Mr. Chaloner, of Oakhill, near Liverpool, and of Goldthorpe Grange, Nottinghamshire, desires to purchase for 200*l.*; and I shall be obliged by your returning these questions with answers, affixed against each respectively. I am, sir, your most obedient servant, *Francis R. Bertolacci*, auditor." The queries which were enclosed in that letter were these: "Land: 1. Which is the nearest post-town to the property, and at what distance is it? 2. Is the property situated on a main road, or cross-road, and if on the latter, how far from the former? 3. Is there any railroad station near the property, and, if so, at what distance from it? 4. Is there any navigable river or canal, or any rapid watercourse near the property, at which, at the pleasure of the proprietor, a dam may be placed; if any or either of these, please state how far from the property, and any further particulars connected therewith which may give value to the property? 5. Is there any public company advertised or known in the locality to be in course of formation for constructing a railroad, canal, or public work, which will require the land in question, or which will be in its vicinity? 6. Are there any coal or mineral mines in the neighbourhood of the property, and, if so, how near to it? Buildings: 7. Are the buildings on the property slated, tiled or thatched? 8. Are they built of brick, wood or stone?

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stone? 9. Are they detached, or built with party-walls? 10. How many rooms do they respectively contain? 11. Have they any rooms above the ground-floor; if so, please state how many in the habitations respectively? 12. What are the out-buildings and appurtenances?"

229. *Chairman.*] Amongst those queries, was there any one relating to the price?—No; because the surveyor had mentioned 158*l.* as the price for which it was to be sold; the purchaser had offered 200*l.*, consequently I wished to know, as upon the report of the surveyor nothing had transpired to show what was upon the property, the reason why a greater amount was offered than that at which it was valued.

230. How did you know that 200*l.* had been offered?—It was stated in the communications from the office to me; I have a letter here which I think is important. Mr. Legard writes to me from York, on December 7, 1854: "Sir; I have received your letter of the 4th, with the list of questions referring to a small lot of land, &c., in Oldcoates. It is impossible for me to answer the whole of these queries without further inquiry; but this inquiry I will make forthwith, and when complete, will forward you the paper you have enclosed." I may state that I sent the paper to Mr. Legard folded in half margin, with the queries on one side, requesting him to put the answers on the other; therefore he says that he will send the same paper back to me with the answers against the queries.

231. Mr. *Coningham.*] Is Mr. Legard understood to visit personally the property he values?—It is understood that he does.

232. Are you aware whether he visited this property before he valued it at 158*l.*?—I am not aware whether he did or not, but, judging from the nature of the questions which I put to him, and his avowed inability to answer them, I should think that he had not visited it; at any rate he could not have efficiently inspected the property for which a larger sum by one-fourth than the valuation was offered.

233. Mr. *Bramston.*] Does Mr. Legard reside at York?—He resides in Yorkshire.

234. His answer is from York; is that the place of his residence?—I believe so.

235. Did he write to you from his office?—I do not know; he wrote from his house.

236. Mr. *Coningham.*] In your reply to him on the 7th December 1854, did you add a further question, as to any timber there might be on the land?—I will read what is added in my letter of the 7th of December: "Sir; I have received your letter, dated to-day, at York. I shall be obliged by your adding to the queries contained in my last, whether there are any trees on the land, and, if so, how many, which could be converted into timber, with a description of their kind and size."

237. Mr. Legard stated in his letter of the 7th December 1854, that when he had made the inquiries necessary to answer your questions, he would return you those questions, with their replies to them; did he return them to you, or did he send them to the clerk of the council?—He sent them to the clerk of the council.

238. And he wrote to you on the 18th of December 1854, saying that he had done so, did he not?—He did so.

239. Was the clerk of the council informed sufficiently early of your having written to the surveyor on the 4th of December, to enable him to communicate with the surveyor before that officer answered your questions?—Yes; I told Mr. Danvers, the clerk of the council, the day after, or the day after but one, that I had written to Mr. Legard to ask him for information respecting the property before I signed the bills for the sale of it.

240. What made you make that communication to the clerk of the council?—Because he was so pressing me to sign and return the bill.

241. Did the clerk of the council forward the replies of Mr. Legard to you on the 19th of December 1854?—Yes.

242. Will you produce the letter to you in which he transmitted them to you?—On the 19th of December 1854 Mr. Danvers writes to me as follows: "Dear sir; I have this morning received from Mr. Legard the enclosed paper, which he informs me he received from you a short time since, with your queries answered." I will read the questions and answers together. "1. Which is the nearest post town

town to the property, and at what distance is it? Worksop; distance between three and four miles. 2. Is the property situated on the main road or cross-road, and, if on the latter, how far from the former? On a cross-road, about two miles distant from Doncaster and Worksop turnpike-road. 3. Is there any railroad station near the property, and, if so, at what distance from it? There is a railroad station at Worksop; none I think nearer; perhaps Rauskill station, on the Great Northern Railway, may be equally distant. 4. Is there any navigable river or canal, or any rapid watercourse, near the property, at which, at the pleasure of the proprietor, a dam may be placed; if any, or either of these, please state how far from the property, and any further particulars connected therewith which may give value to the property? A canal, connecting the Trent with the manufacturing and the coal districts of Doncaster and Lancashire, passes by Worksop, and so on to Retford, &c., and this is distant, as I have above stated, less than four miles: the advantages derivable from this circumstance are too obvious to require enumerating; there is no navigable river within the range of possibility up to this property. 5. Is there any public company advertised or known in the locality to be in course of formation for constructing a railroad, canal, or public work, which will require the land in question, or which will be in its vicinity? I know of none such, nor do I think that the formation of any such is probable. 6. Are there any coal or mineral mines in the neighbourhood of the property, and, if so, how near to it? The nearest coalmines in operation are those of the South Yorkshire coal field, distant about six or seven miles; other minerals are unknown in the locality. 7. Are the buildings on the property slated, tiled, or thatched? Buildings thatched and tiled. 8. Are they built of brick, wood, or stone? Brick and stone. 9. Are they detached or built with party walls? Two detached, one remaining with party walls. 10. How many rooms do they respectively contain? Two cottages have two rooms each, the remainder only one. 11. Have they any rooms above the ground-floor, if so, please state how many in the habitations respectively? None. 12. What are the outbuildings and appurtenances? Coal-houses, pigsties, and privies."

243. *Chairman.*] Do those answers of the surveyor throw any light upon the price that was accepted?—They do not throw much light upon it, but they show that at the time the valuation was made, which was under what was offered, the surveyor had really not taken those steps which I consider he was bound to take, in order to ascertain the value, inasmuch as his first answer to my question was, that he could not answer the questions; and every one of those questions had reference to points which might have materially enhanced the value of the property; it might have been adjacent to a railroad; it might have been adjacent to a canal for wharfage, and there might have been timber upon the property.

244. Was the answer of the surveyor that he could not tell, or that he had not the means of telling at hand?—He said he could not tell without making further inquiry.

245. Viscount *Goderich.*] Was not the answer that he could not reply to all your questions?—Just so.

246. One of those questions relates to the probable future existence of a public company; that was not a matter which he might naturally have required to inquire into upon the spot, and which might not have suggested itself to him when he visited it?—Quite so.

247. Therefore his reply does not necessarily prove that he had not visited the property at the time that he made the valuation?—I cannot say whether he had visited it or not, nor am I aware that the officials in the office were aware whether he had done so or not.

248. You do not know whether he had visited it or not?—Beyond his stating that he valued the property at 158*l.*; if that valuation was produced, it would be seen to have been merely a conversational letter from Mr. Legard to the clerk of the council, without showing any basis upon which he had formed his valuation of the property; and, consequently, I put those questions which I thought necessary to elicit the fact whether he had or not.

249. *Chairman.*] These two documents, which are amongst those which were delivered in by Mr. Danvers, were signed by you in the interval between July and November?—Yes.

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250. Will you be so good as to state to the Committee whether you affixed your signature to these documents on the 12th day of August, or on the date on the other part of the bill, which is the 11th day of July?—There is nothing upon the face of the bill to show when I signed it; I was never required to affix any date to my signature, but my signature was always subsequent to the minutes ordering the bills to be prepared, and generally some time after the whole matter had been decided.

251. Did you affix your signature in those two places on the same day?—Decidedly so.

252. Can you state whether it was on the first or the second of those days, namely, the 12th of August or the 11th of July?—I always signed on the same day.

253. Viscount *Goderich.*] In both places?—In both places; and I think that those dates were left blank for the date of the sign manual.

254. That is to say the upper date was left blank?—Yes; the lower date alludes to the minute of the council, and therefore it was of course subsequent to July, but I should think that it was not subsequent to August, because my signature was always before that of Her Majesty; and I think that very probably these dates were left blank to be affixed on the same day that the Royal assent was given to the bill.

255. It is probable that you put your name to the bill before the date of the sign-manual?—Yes, always.

256. *Chairman.*] Do you, from this, infer that your signature was affixed more probably on the 12th or 13th of July, than on the 12th of August?—It was subsequently to the 11th of July, the date at which the minute took effect.

257. Viscount *Goderich.*] And previously to the date of the sign-manual?—Yes.

258. *Chairman.*] The same thing holds good with regard to this other bill; the 11th of July is the date below, and the 12th of August is the date of the sign-manual; do you suppose that in this case also the same course was followed?—My signature was affixed the same day to both.

259. And you believe your signature to have been affixed at nearer the lower date than the upper one?—It was between the two; in some cases I was not aware that the property was to be sold for two or three weeks after it had been decided that I was to be called upon to sign them.

260. Then so far as these documents which have been put in are concerned, does it not appear that neither of these documents was signed in the interval between the 29th of July and the 28th of November?—They may have been signed between the 29th of July and November, because the date of this is the 11th of July, and this is August; consequently, supposing it was signed, as very possibly it might have been, in August, it would have come within the dates which you mentioned.

261. Viscount *Goderich.*] These documents are only bills; you referred also to leases, which are not before the Committee at present?—These are bills advising Her Majesty to part with certain portions of her inheritance of the duchy for certain sums which are therein stated to be the best price and consideration money that can be obtained for it.

262. I suppose it is quite clear that this document, the date of the minute in regard to which is the 25th of November, cannot have been signed by you before the 20th of November?—Of course, in the same way as the previous one.

Martis, 23° die Junii, 1857.

MEMBERS PRESENT.

Mr. Bramston.	Viscount Goderich.
Mr. Coningham.	Mr. Hans Hamilton.
Mr. Sotheron Estcourt.	Lord Harry Vane.

T. H. S. SOTHERON ESTCOURT, Esq., IN THE CHAIR.

Francis Robert Bertolacci, Esq., called in; and further Examined.

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263. Mr. *Coningham.*] WERE you called upon as auditor by the clerk of the council to sign the leases of duchy property before they were submitted to the attorney-general of the duchy for his signature?—I was.

264. Was it stated to you by the clerk of the council, that it was necessary the auditor should sign those leases first, as a warrant to the attorney-general for the correctness of the facts stated in such leases?—It was so stated to me by the clerk of the council.

265. Were not two leases of this kind sent to you by the clerk of the council, on the 25th of August 1854, for your signature, stating, at the same time, that they had been prepared pursuant to a minute of the court, dated the 12th of that month?—They were.

266. So that the terms and particulars of the leases were decided on by the Chancellor and council, without your knowledge?—They were decided on without my knowledge.

267. You state in your petition that these leases were carelessly drawn up by a clerk in the Duchy Office, without being submitted to the solicitor of the duchy; are those facts shown by the remarks you transmitted to the clerk of the council, in your letter of the 21st of October 1854, to be laid before Earl Granville, the Chancellor of the duchy; also, by the reply of the clerk of the council of the 24th of October, and your addenda remarks on the 25th of October 1854?—I pointed out by those remarks the defects and omissions of necessary provisions in the leases which had been sent to me for my signature.

268. Will you produce those documents to the Committee?—"Remarks on the drafts of leases of the house in the Strand, divided into two dwellings as per margin: 113, Strand, Mr. H. J. D'Ath; 113A, Strand, Mr. R. Hewson. The mode in which leases have been granted by the Duchy of Lancaster seems to have been very informal; it appears that neither the drafts nor the leases themselves, which are granted by the duchy, are either prepared or read over by the law officers of the duchy, nor by any person belonging to the legal profession, but that such legal instruments are made out by the clerk in the office. Neither does it seem that a common form has been prescribed by the law officers for the purpose, as the terms upon which leases are granted by the duchy vary in themselves, and certain property and subjects differing materially in their nature. Under these circumstances, I am of opinion that the proper course would be, for the draft of the lease to be, in the first instance, either prepared by the solicitor to the duchy, to be admitted by the attorney-general of the duchy, to be an instrument consistent with law in its terms. When the draft of the lease has thus been secured against informality, it might then, with the surveyor-general's report, be submitted to the auditor, for him to ascertain whether the property described in such draft lease corresponded with the records of it in the office of the duchy, and whether its value had been duly ascertained. Until these preliminary proceedings have been gone through, I do not think that I should be justified in signing the leases. Apart from the above observations, it occurs to me, that the draft of the leases now laid before me, for the two portions of the house, 113, Strand, are in themselves objectionable, because, after it being provided in the lease, that the surveyor-general of house property and buildings of the said duchy for the time being shall be at liberty to enter in and upon and

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survey the property yearly, or oftener, and examine the premises, and if they be then found to be out of repair or tenantable condition, the lessee shall be bound by the serving of a notice to that effect, to make such repairs, the lease proceeds to give the same powers 'to such other person or persons as shall for that purpose be nominated and appointed by the Chancellor and council of the said duchy for the time being.' As the surveyor-general holds his appointment by patent granted by the Sovereign, the above addition in the lease appears to clash with it; for although it may be consistent for the surveyor, as a responsible officer to the Chancellor and council, to obey any instructions given him by them to survey any particular property, and report, yet it would be inconsistent for the council, without the authority of the Sovereign, to attempt to supersede a patent by the Queen. The terms of the lease seem to be defective, because in the after-part conditions are referred to as having been explained in the former part of the lease which have not been mentioned in it; namely, it is stated that if the property, or any part of it, shall, on such surveys, appear not to be in good repair and tenantable, and notice thereof in writing shall have been given to the said Henry John D'Ath, his executors, administrators or assignees, or left at his or their place of abode, together with a particular state of the repair necessary to be done, 'he the said Henry John D'Ath, his assignees, &c. shall forthwith, after such notice shall be given in manner as aforesaid, at his or their proper costs and charges, set about and with all convenient speed well and sufficiently complete the repairs as in and by such notice or notices shall be mentioned and required;' but although the words named aforesaid apply to the serving of the notice, and the words, 'such notice or notices,' apply to the 'notices so given and so served, to make them binding,' yet it has not been stated by whom or on whose behalf such notices are to be given; neither does the form of the lease secure to an assignee (in the case of an assignment by the Crown) the power to survey the property and to give the notice of necessary repairs; this latter omission, in case of sale of the property, might lessen its value by affecting the state in which it would revert to the purchaser at the expiration of the lease. A provision appears to be necessary, that in case John D'Ath, his assignees, &c., shall fail to make good the repairs to the satisfaction of the surveyor-general of the duchy, it should be competent for the Chancellor and council to have the repairs, &c. made good to the satisfaction of the surveyor-general, at the expense of D'Ath, his administrators or assigns; and it appears to me, that if (by the lease) the expense of making good such repairs could be reclaimed in the shape of an addition to the rent (should the Chancellor and council so think fit to direct), it would very much facilitate the recovery of the money; but this mode of collecting the debt is merely a suggestion for the consideration of the attorney-general; the lease states that the rent shall be paid into the hands of the receiver of the premises hereby demised 'for the time being,' but it does not demise any officer as receiver for that purpose, while I am informed by the first clerk of the duchy, who acts as deputy to the receiver-general, that the bailiff of the Savoy (the proper officer for making such collection) is, by his patent, specially prohibited from receiving the rents; and as in a foregoing point of the lease the lessee is put in possession of the premises in consideration of 'yielding and paying therefore in every year during the term hereby granted unto The Queen's Majesty, her heirs and successors, the rent of 85 *l.*,' the duchy might be put to considerable trouble and inconvenience (and even forfeit the special provision requiring the payment of the rent within 60 days from the period of any amount becoming due) if the lessee or his assignees should refuse to pay the money to any body but The Queen in person; I think the rent should (by the lease) be made payable to the receiver-general or his deputy, in order that the responsibility may rest in a proper quarter for its collection. A provision is inserted in the lease, requiring the lessee to insure against risk by fire in some public insurance society in London; to produce the receipt to the clerk of the council, if required by him so to do, and if the premises are damaged by fire to expend the amount insured, with such further sum as may be necessary in repairing the damage; but this provision seems to me to afford no protection to the duchy, as it does not carry with it the means of its enforcement, namely, the first, because the valuation of the premises (which are the property of the duchy) is left to the lessee who has no interest in insuring to the full amount; second, because the lessee, is not required to insure in any other name in addition to his own, and therefore should a fire occur on the premises, the amount might be paid to the lessee by the insurance company, and if he omitted

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to expend it in repairing the damages, the duchy would have no redress; I think the remedy for the first would be to have the property valued by the surveyor-general of the duchy for house property, and to insert the amount of his valuation in the lease as that at which the lessee should be bound to insure. The second defect would be remedied by requiring the lessee to insure in the joint names of The Queen, in right of Her Duchy of Lancaster, and himself, by which means the assurance company would require the discharge to be given by the duchy in the first instance, as well as by the lessee in the second case, which would afford a security against the money being paid to and misapplied by the latter. The proviso for insurance is followed by another, which states that the lessee, his executors, administrators, or assigns, 'shall not, nor will, during the term hereby granted, permit or suffer the use or exercise of any noisome or offensive trade or business being carried on within or upon the same premises.' This provision should include a prohibition against the manufacture on the premises of any combustible matter, as such extra risk incurred by the tenant would free the insurance company from liability to pay the amount for which the insurance was effected, without extra premium for such manufacture, and the protection given to the duchy property by the insurance would thus be lost. Although I see no objection to the clerk of the council, or any other officer of the duchy, having the right to call on the lessee for the production of the receipt for the premium paid to the assurance company; yet I think that that power should be granted to the receiver-general or his deputy who has to collect the rents, and to the auditor as the party who has to see that the property of the duchy is not improperly alienated or wasted. *F. R. Bertolacci.*" I beg leave to put the above remarks, in with the following letters: namely, the letter from Mr. Danvers to me, stating that the remarks having been read, had been desired to be submitted to the conveyancing counsel, and the letter from me to the clerk of the council on the 25th of October, with the addenda to the remarks arising out of the communication which he had with me upon the subject: "Duchy of Lancaster, Waterloo-bridge, 24 October 1854: The Chancellor having read your 'remarks on the draft leases,' proposes to refer the subject to the conveyancing counsel of the duchy; but before doing so, the Chancellor has desired me to see you for the purpose of talking over the points touched upon, some of which you may possibly think it desirable to revise or omit, after receiving an explanation thereupon; I shall be happy to attend to any appointment you may propose. I am, dear sir, yours very truly, *Fk. Dawes Danvers.*" Then, "5, Cornwall-terrace, St. George's-road, Pimlico, 25 October 1854: My dear sir; I return you my remarks on the draft leases of 113 and 113A, Strand, with an addenda, to meet the points adverted to by you. I am, dear sir, yours truly, *Francis R. Bertolacci.*" "Addenda to remarks, dated 21 October 1854, on leases of 113 and 113A, Strand. The clerk of the council having called my attention to the fact, that unless the property to be leased by the Duchy of Lancaster be first checked by the auditor, to whom the reports of the surveyor-general are to be submitted, there would be no evidence before the attorney-general to warrant his affixing his signature in the first instance to the drafts of the leases, while on the other hand the auditor (not being a lawyer) cannot pass such drafts without the guarantee of the attorney-general's signature, to certify that such instruments are drawn up consistently with law; the following seems a simple and easy mode of meeting the difficulty, namely, when the draft leases have been prepared by the solicitor, or in the office of the duchy, they may, with the surveyor-general's report, be submitted to the auditor, who will then merely see that the property, as stated in such draft leases, had been duly reported on, and its value properly ascertained in conformity with the minute of the Chancellor and council; and if this has been done to his satisfaction, he will then forward the same, with a certificate to that effect, and any remarks on the subject to the attorney-general, who will then sign (and if it be necessary amend the terms of) the lease and return it to the auditor, who will then sign the lease after the attorney-general, and return it to the clerk of the council; by this means the scruples which may arise with both the attorney-general and the auditor will be obviated by each having (when he signs the deed) the guarantee of the other for that part of it which appertains to his special department. This arrangement will at the same time save the additional trouble and delay in the office of issuing the document twice instead of once, while it will only involve a trifling extra trouble on the part of the auditor of receiving it back from the attorney-general, and

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and forwarding it to the clerk of the council in a perfect state for the approval of Chancellor and council. *Francis R. Bertolacci*, 25 October 1854."

269. Did the clerk of the council, by his letter of the 20th of November 1854, inform you that the Chancellor and council had had before them the subject of these leases, and that they had appointed a committee of the law officers, to whom your "remarks" had been referred, who were directed to report their opinion on a new mode of passing such leases?—He so informed me.

270. Do you think that the auditor should have been on the committee which had to report on a matter of this kind, as his functions required him to protect the property of the duchy?—That is my opinion.

271. Will you read your letter of the 20th of November 1854 to the clerk of the council on this subject?—The substance of my letter on the 20th of November 1854, was to state that if the purport of the committee was to see how far those leases were to be drawn up according to the forms of law, I had no remark to make; but if it was to affect the signature or the functions of the auditor in conjunction with those leases, then I thought the auditor ought to have been one of the committee. My letter was thus: "5, Cornwall-terrace, St. George's-road, Pimlico, 20th November 1854: My dear sir; I have received together your two letters of to-day. If the committee of the attorney-general and vice-chancellor of the county palatine of Lancaster are a committee to report on the form of lease as a legal instrument, they will no doubt be sufficient; but if their report is to embrace any recommendation to affect the proceeding by which the property of the duchy receives protection from the auditor, he should have been one of the committee appointed. You no doubt remember that I have told you that I considered the proceedings connected with the enfranchisement as not having been correct, and that such should not have taken place without the knowledge of the Sovereign and the Chancellor and council of the duchy; but I must beg leave to postpone for a short time any further remarks or suggestions on that subject. I have to-day, for the first time since last Tuesday, been able to leave home from a cold at the chest, and as I cannot go to the duchy office to peruse the minutes until late in the afternoon, on leaving the Ordnance office, perhaps you will save me the necessity of so doing by being so kind as to inform me on what day the Chancellor (Earl Granville) met the other members of the council, and who were present. I am, my dear sir, yours faithfully, *Francis R. Bertolacci.*"

272. Did the clerk of the council state to you in his letter of the 28th November 1854, that "fresh forms of clauses for duchy leases had been prepared by the conveyancing counsel of the duchy," and were not such fresh forms in consequence of your remarks on the improper manner in which such leases had been prepared?—The clerk of the council made such a communication to me, and such were the results of my remarks.

273. Will you read that part of the letter from the clerk of the council, dated the 28th of November 1854?—It is headed, "Duchy Leases. The attorney-general of the duchy has advised upon the points submitted to him as to the power to appoint any other than the surveyor-general of the duchy to enter upon the premises to view the state and repairs; he is of opinion that the Chancellor and council may give such power to a person without infringing or clashing with the surveyor-general's patent. Fresh forms of clauses for duchy leases have been prepared by the conveyancing council of the duchy."

274. Was the valuation of the duchy property, and the yearly amount at which it should be let, as well as the functions of the auditor in the matter, made the subject of a personal communication by you to Earl Granville on the 10th of August 1854, and afterwards referred to in the following correspondence, namely, your letter of the 19th of August to the clerk of the council, his reply of the 22d of August, and his subsequent letter of the 19th of December 1854; also in his letter of the 30th of January 1855, and in your 8th and 13th Remarks on the Draft of Instructions sent to you by Earl Granville on the 18th of January, and which you returned to his Lordship on the 2d of February 1855; also in your letter of the 5th of February 1855, to the clerk of the council?—Yes, and those documents will show, that that which was first admitted to belong to the active and independent functions of check appertaining to the auditor, was afterwards denied to me, when I wished to put them into operation, and that it was sought to make me merely a blind agent of the Chancellor and council.

275. *Chairman.*] What is the point which you desire to impress upon the Committee,

Committee, as shown in the documents included in the last question?—To show that at first there was no objection raised to my exercising the functions of check, and afterwards that it was so.

276. Mr. *Coningham.*] Please to read the portions of the documents last alluded to, which have reference to the grants in fee and leases?—This is my letter of the 19th of August 1854: "Dear Sir: I shall feel obliged if you will inform me whether Lord Granville has given any orders which remove the objection you conceived existed to my having free access to the minutes of the court, and to all the documents of the Duchy of Lancaster in your charge." On the 22d of August 1854, Mr. Danvers replied: "In reply to your inquiry, I beg to inform you that Lord Granville desired me to prepare the draft of a minute to be considered at the next council, for giving you free access to the minutes of the council, also for referring to you the valuations of surveyors prior to their being finally confirmed by the court. I have accordingly a draft minute in readiness. A council will probably not be held until after the long vacation. In the mean time all minutes and documents necessary for reference in the exercise of your official functions will of course be open to you. I am, my dear Sir, yours faithfully, *Fk. Dawes Danvers.* Postscript: I am returning to town this evening." As that latter part has been read, I wish to observe that by the expression made use of "necessary for reference in the exercise of your official functions," the clerk of the council still persisted in considering that he was not at liberty to allow me free access to the minutes of the court, and as I could only have a knowledge of those which were either referred to in the accounts, or that he chose to acquaint me with, I was left at the mercy of the clerk of the council and of the party whose accounts I had to check, for the information with which I was to perform the functions of my office.

277. *Chairman.*] Is not the latter part of the letter you have just read an explanation of your not having received until the 20th of November 1854 a letter acquainting you that the auditor should henceforth have access to the minutes?—Yes, it has reference to the same subject.

278. Viscount *Goderich.*] Do you not consider that under that letter you would have had access to any minutes which it might have been necessary for you to see, in order to enable you, with full knowledge, to sign a bill or a lease?—As far as the bill or the lease is concerned itself, and I should have called upon the clerk of the council to show me that what was stated therein had been duly authorised; to that extent the minutes, no doubt, would have covered it.

279. From the date of the 22d of August 1854?—Yes, as far as the substance is contained in the bill itself, but not beyond. I make this statement without prejudicing the point, which I conceive requires the auditor to be a party to the valuation of the property and the preparing of the lease. The third paragraph of Mr. Danvers's letter of the 19th December is this: "I send herewith a copy of the auditor's oath, which you wished to have. It appears to me that the principal duties of the auditor are signified by his patent, wherein he is termed auditor of the accounts, and that his other duties relate to such matters as may be referred to him by the court, part of the oath which the auditor takes being to be obedient, diligent, and attentive to the council, &c., which seems to confirm this view. The auditor's signature to the bills or grants in fee, is required under a minute of court, and, according to the opinion given by the attorney-general and the vice-chancellor, with respect to leases, such signature to imply that the auditor is satisfied that the terms of the grant are in accordance with the minute directing the grant to be made. If there be any other point relating to your duties which may be in my power to explain, I beg you will not hesitate to let me know your wishes." I wish to remark upon the first part that the receiver-general, whose accounts the auditor has to check, is one of the council, so that according to the construction put on the auditor's oath, he must be obedient to the party he checks. Secondly, this letter is not distinct, and misrepresents the facts of the case. Because, when the minute of the court was made, deciding that the auditor should sign bills and leases for the transfer of the duchy property, the auditor was not excluded from the council, of which he constitutionally forms a part; his signature to these documents was not, as is by this letter made to appear, obligatory on him under the will of the Chancellor and council, but was merely a substitution of another process called "a particular" which he used formerly to make out when the surveyor's reports had been submitted to him and passed by him; and as the duties of the auditor are those of check, and as it is contrary to the nature of his office to be

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subservient to the will of any other functionary, and especially of those partie over whom he is a check, his signature to the bills and leases was merely the new way of his exercising the check which he previously effected by means of his inspection of the surveyor's reports, and by his "particular," when he had passed them.

280. Mr. *Coningham.*] Will you now read the letter of the 30th of January 1855 ?—"Duchy Office, January 1855. In forwarding to you the accompanying bill for a grant in fee to Mr. Aaron Wetherall of land, containing 272 7-9th square yards, encroached from the waste of the Manor of Pendleton, I am desired by the Chancellor to remind you that what is required of the auditor before affixing his signature to the bill is simply to see that the same is in accordance with the minute of the court. The minute fixing the terms for this grant is dated the 14th of November last, and the terms having been agreed to on the part of the purchaser, the minute directing the bill to be prepared is dated the 4th instant."

281. Will you read your 8th and 13th Remark on the Draft which was sent to you by Earl Granville on the 18th of January ?—In the draft of instructions to define the duties of my office which Earl Granville sent to me on the 18th of January, and which I returned on the 2d of February 1855, with the observations which were made by me thereon by his Lordship's desire, the following appears in the eighth paragraph : subject, "Surveys and Valuations :" "The authorities of the Chancellor or orders of the council should be examined by the auditor in all cases. He should require the accounts of particulars to be furnished to him for examination, and see that the charges are in accordance with the terms of the contracts, where the expenses have been incurred under contract, and that the accounts cast and compute correctly, and are properly vouched." My remark upon that is : "It has been the practice of the auditors to sign the leases and examine the valuations by the surveyor both of property to be leased and sold by the duchy. Up to the time of Lord Granville Somerset being the Chancellor, the auditor examined the valuations of the surveyor of house property before the leases were decided on by the Chancellor and council ; at that period, however (the auditor being a member of the council), it was thought sufficient that he should sign the lease itself. When I was called upon to sign the leases and bills for sale of land, I questioned the valuations of the surveyors (which appeared to me to be superficially made) before affixing my name to the leases and bills to pass the duchy seals. The result has been that a committee of the vice-chancellor and attorney-general of the duchy was appointed to report whether it was necessary that the auditor should sign the leases, and upon their report, I am informed by the clerk of the council that I am no longer required to sign the leases. The enrolment of these deeds, under the direction of the parties who have either to receive the money or to see that it is paid to the bank, is the only means the auditor has of ascertaining that the decision of the Chancellor and council to the lease of the property has been carried into effect. The enfranchisement of lands by the duchy involving both valuations and commutations, and, in some instances, the payment of money to individuals for the interest possessed by them in the leases of manorial rights, have been effected by the clerks of the duchy, who, in such enfranchisement deeds, have stated the act to be that of the Queen, with the advice of the Chancellor and council, although such proceedings had not been previously sanctioned by the Chancellor and council. In these instances, a small impression of the duchy arms, which has been kept in the custody of the first clerk, has been substituted for the duchy seals, under which all acts of the Sovereign are effected. By this means the auditor has been prevented from exercising any check on the alienation of this branch of the hereditary revenues of the duchy." The thirteenth paragraph of Earl Granville's Instructions states, that, "Further, it is the duty of the auditor to see that the bills for grants in fee and the drafts of leases submitted to him for signature are drawn conformably with the terms previously settled by the Duchy Court, for which purpose he will refer to the council minutes on the subject of each grant or lease, as the case may be ; also to examine, at the end of every quarter, the Duchy Fee Fund Account, to see that the fees established by prescription or order of court are received and accounted for, and that the half-yearly remittances by the seal-keeper in the county palatine, on account of money received for sealing writs, are duly placed to the credit of the Fee Fund. For this service, all books, instruments, and bills of fees that the auditor may require, to assist in the proper examination of the account, will be accessible to him, and

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and finally to attend to any matters and accounts which the Duchy Court may think proper to refer to the auditor for his consideration and report." My observation upon that was,—"It will be seen by reference to my remarks on number 8, that I have been precluded from making any inquiry into the valuation by the surveyors, for the yearly sum at which the property of the duchy should be let; and, as in the cases of grants in fee which alienate the property for ever from the inheritance of the Sovereign, the consideration (that is, purchase-money) is calculated according to the rental of the property to be disposed of, it follows as a natural result, that by the auditor being excluded from exercising any check upon the letting of the property for less than its real value, I am, by the course adopted and pursued since my appointment to that office, prevented from exercising any check upon the loss of capital arising by the disposal of the inheritance of the Sovereign. Yet, by the 9th section, I am required to see that the proceeds of such sales are all 'placed out to the best advantage, and that proper security is given by the receiver-general.' The instructions and restrictions placed on the functions of my office (I do not feel myself at liberty to say 'properly'), are inconsistent with each other. As this instruction states that it is the duty of the auditor to sign the bills for the grants in fee, according to the previous decision by the court, I feel bound to call attention to chapter 36 of Coke's Institutes, in which the auditor is stated to be one of the court. It seems therefore inconsistent to assume, either that he can divest himself of that which, according to such authority, has belonged to his office, or, that when he signs the bill itself, and affixes the title of his office to his name, that he does not sign it in his official capacity as a member of the court, participating in the act, and having a full knowledge of the facts contained therein. The second signature of the attorney-general and himself to a certificate at the foot of the bill (without stating their official capacities), saying that it has been prepared for the 'Royal signature, pursuant to a minute of the council,' would also bear out the idea, that at the time that the Crown was by Statute debarred from an arbitrary control over the inheritance, it was not intended that the power thus taken from the Sovereign with regard to her personal property should be conferred on any one of her subjects; but that the trust should be reposed in an institution, of which the attorney-general and auditor formed constituent parts. This principle appears to have been followed out in the subsequent Parliamentary enactments sanctioning the sale of the duchy property, but providing that such sales should be effected by the Chancellor and council of the duchy, while at the period of these enactments there was no other council than the officers of the duchy, including the auditor, nor have any Acts of the Legislature been since passed, to constitute any other body in lieu thereof. While preparing these observations on 'The Instructions for the Auditor,' I have received from the clerk of the records a paper which appears to bear directly on the subject, and to confirm the constitutional view of the matter. But as that paper will be made the subject of a special case to be submitted to the Chancellor and council, I will not insert it here. *Francis R. Bertolacci*, 2d February 1855."

282. Will you now read your letter of the 5th of February 1855, to the clerk of the council?—"5th February 1855. Dear Sir, I am much obliged to Mr. Hardy for his prompt attention to my request, in making the searches into the records of the duchy, and preparing the paper relating to the process by which grants in fee should be effected. Your recent letters calling on me to sign, as a blind agent of the Chancellor for the time being, the bills for the disposal of the duchy inheritance of Her Majesty, have, I confess, raised such doubts in my mind, as to whether the course urged on me would be consistent with the peculiar duties and character of the office of an auditor, that I have been led to defer taking any part in such proceedings, until I should have been able more completely to investigate the matter, and formally bring it before the Chancellor and council. You will therefore understand why I have not yet taken any further steps with reference to the sale of land in Salford to Mr. John Brooks, which might make me compromise a fundamental principle of the duchy as a trust, and establish a precedent for a similar course being pursued by future auditors. On perusing the Acts you sent me, I find an important reference (in the 42d Geo. 3, c. 116, s. 140), to the Acts of the 19th and 34th Geo. 3, on the subject of the duchy property, and you will much oblige me by sending them to me any time to-morrow, before four o'clock, at the Ordnance Office in Pall-mall, after which I hope to prepare a document on the subject. Please to let me know when the

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receiver-general's account for the year ended 29 September 1854 is ready for me to audit it. I am, dear Sir, yours truly, *Francis R. Bertolacci.* Frederick Dawes Danvers, Esq., Duchy of Lancaster."

283. *Chairman.*] You have referred in your last answers to a draft of instructions; to what did those instructions relate?—They related to the duties which, according to the Chancellor's view, the auditor should discharge.

284. Were you aware that it was the intention of the Chancellor to draw up any such code of instructions?—The Chancellor wished me to suggest what the duties of the auditor were.

285. When did he do that?—It was a short time previously; but I declined to do so, not feeling that I had sufficient information upon an institution of such antiquity, and especially as I did not feel that I ought to prescribe the duties of an office over which I had no control, being an office of a constitutional nature, I conceived.

286. You, having then declined to take a part in drawing up a draft of instructions prescribing the duties of your own office, received from Earl Granville the draft of instructions which his Lordship had drawn up?—Yes.

287. And those are the instructions to which your late answers relate?—Yes.

288. Mr. *Coningham.*] Did you receive two letters from the clerk of the council on the subject of enfranchisements?—Yes; one was dated the 20th and the other the 21st of November 1854. On the 20th of November 1854, the clerk of the council wrote to me, saying, "My dear Sir, Two or three applications have recently been made for the enfranchisement of copyhold property in different parts of the duchy possessions, but I have been deterred from proceeding with them, under the impression that it has been your intention to make some suggestions on the subject of enfranchisement. Parties will, however, be, no doubt, desirous of having their grants, and I trouble you with this for the purpose of inquiring whether I am correct in supposing you were going to offer any remarks or suggestions on the subject, and if so, whether you could conveniently do so at an early period." My reply to that letter, of the same date, was as follows: "My dear Sir, I have received together your two letters of to-day. If the committee of the attorney-general and vice-chancellor of the County Palatine of Lancaster are a committee to report on the form of lease as a legal instrument, they will no doubt be sufficient; but if their report is to embrace any recommendation to affect the proceeding by which the property of the duchy receives protection from the auditor, he should have been one of the committee appointed. You, no doubt, remember that I have told you that I considered the proceedings connected with the enfranchisement of property as not having been correct, and that such should not have taken place without the knowledge of the Sovereign and the Chancellor and council of the duchy; but I must beg leave to postpone for a short time any further remarks or suggestions on that subject. I have to-day, for the first time since last Tuesday, been able to leave home from a cold at the chest, and as I cannot go to the duchy office to peruse the minutes until late in the afternoon on leaving the Ordnance Office, perhaps you will save me the necessity of so doing by being so kind as to inform me on what day the Chancellor (Earl Granville) met the other members of the council, and who were present. I am, my dear Sir, yours faithfully, *Francis R. Bertolacci.*" Then, on the 21st of November, Mr. Danvers wrote me a letter, in which he states, "I trust you will pardon me for expressing my regret that you think it necessary to postpone any remarks or suggestions you may have to make on the subject of the enfranchisement of copyholds, as, if any improvement is to be effected, it is desirable it should take place before another grant of the kind is made. In the meantime I would beg to set you right, if you imagine the Chancellor and council have not been cognisant of the enfranchisements. There are many minutes on record showing they are so, though I cannot find that it has ever been the custom, since the passing of the Act empowering the Chancellor and council of the duchy to enfranchise copyhold and customary tenements, to bring each case of enfranchisement before the court previously to its taking place. The probable reasons for this were (for I found the custom to prevail when I first held office in the duchy) that in copyholds each manor is guided by its own customs, and that therefore there was little to do beyond following precedents, and the waiting for an opportunity to submit each case to the court would occasion delay and give parties cause for complaint. It would, of course, ill become me to pass any remarks on an Order of Council which has been made, or to enter into the question whether the auditor should or should not

not have been a member of the committee for investigating the mode of passing duchy leases; but I have no doubt that if the committee find that you should be consulted on any point, they will be glad to avail themselves of your opinion."

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289. Did you receive a letter from the Earl of Harrowby on the 4th of May 1855, in which his Lordship alluded to the subject?—Lord Harrowby, in his letter to me of the 4th of May 1855, states, "With respect to the Salford encroachments, you made sundry observations in your letter to the late Chancellor of the duchy, dated the 8th of January 1855. In the answer to that letter those observations were fully replied to, and it was intimated to you that you had mistaken the object for which the auditor's signature was affixed to bills, viz., for the purpose of testifying that the bill was in conformity with the minute or order of court; and the duchy being bound in honour to complete the grants which the council had agreed to make, you were requested after the explanation given to you to affix your signature to the bill in the usual way." I wish to make an observation upon that. By my report of the 10th of March 1855, enclosed to Earl Granville in my letter of the same date, I showed on the evidence of the clerk of the records of the duchy, that the signature of the auditor to bills for grants of the duchy lands was not formerly required, and that those bills were signed by the clerk of the council, whose signature did not testify to the bill being in conformity with the order of the court, but to its having been drawn up according to a document called a "Particular," which had emanated from the auditor on his examination of the surveyor's report and valuation before the Chancellor took part in the transaction. In the same report, I pointed out to Earl Granville that by the auditor being required to sign the bills now that he was excluded from the council or court of the duchy at which the valuation was examined, the grounds of his duties became shifted, and that by his signing the bills for grants in fee as auditor, he was thus giving a certificate to a fact that did not exist, namely, that he had examined the surveyor's report and valuation, as his signature to the bill was a substitution for that of the clerk of the council, which had testified that the substance of the bill was in conformity with the auditor's particular of the surveyor's report. The assertion therefore by Lord Harrowby that I was required to sign the bills in "the usual way" is inconsistent with the fact; as "the usual way" depended on the power and functions of the auditor as exercised at the council of the duchy, to check the proper valuation of the property, before any steps were taken to compromise the interests of Her Majesty by the Chancellor and council making any engagement to sell the Royal inheritance, which is a perpetual trust for the Sovereign, dependent on the distinct functions of various officers; such as the Chancellor, the attorney-general, the receiver-general, the surveyor-general, and the auditor; each receiving his authority to act, not from the Chancellor and council, but by the King's or Queen's Letters Patent. The fact therefore is, not that I have refused to act up to what has been usual, but that I have hesitated to sign a statement to Her Majesty, that the property was sold for the best price which could be obtained for it, without knowing such to be the case; and that I refused to accede to that which was unusual, to sign a deed as auditor, while I was debarred from exercising the powers which the auditors have always had and which belonged to my office.

290. Do you consider those letters consistent with each other?—Certainly not; the letters of the 20th and 21st of November are inconsistent with the letter of the 4th of May. The letters of the 20th and the 21st of November called upon me (although excluded from my seat at the council) to perform a duty which appertains to the deliberative department of the duchy, and the letter of the 4th May 1855, points to a communication of the 18th of January 1855 from the clerk of the council, to the effect that the auditor was not to exercise any such functions.

291. Will you state the substance of that part of the conversation which you had with Lord Granville on the 16th December 1854, which related to the valuation of property?—His Lordship said, that he thought I gave myself unnecessary trouble in going into matters of detail with regard to the valuation of property.

292. Does it therefore appear that prior to your remarks of the 21st of October 1854 on the irregularities in granting the leases, Lord Granville did not object to your exercising the functions of check possessed by your predecessors over the surveyor's report; and that subsequently to those remarks by you, and to your questions on the 4th December 1854 to Mr. Legard, the surveyor of the property then to be sold, those functions were denied to you, and you were required to

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agree to whatever the Chancellor and council had settled without your cognizance?—Those are the facts of the case.

293. Were any grounds stated for curtailing the powers of the auditor and debarring him from checking the proper valuation of the property before it was sold or leased?—No, none whatsoever.

294. Have the orders of the Chancellors acting alone been considered by the clerks in the Duchy Office as a minute of the council of the duchy?—Yes.

295. Was that fact shown by the letter which you wrote to the Chancellor (then the Right Honourable Edward Strutt, now Lord Belper), on the 9th June 1854, which you have read to the Committee?—In that letter to Lord Belper, then Mr. Strutt, I alluded to there being no minute actually signed by either himself or any member of the council for the grant of land for which I was called upon to sign a bill, and I mentioned that the clerk of the council had told me that the bill had been drawn by his (Mr. Strutt's) order in anticipation of his signing the minute to authorise the grant.

296. Was that further proved by the letter of the clerk of the council, dated 22d of January 1855?—Yes.

297. And by what was stated to you by the first clerk in the Duchy Office on the 30th January 1855?—Yes.

298. And by the statement of the clerk of the records of the duchy, dated 31st January 1855?—Yes.

299. Will you produce the documents alluded to which bear on this point, in addition to your letter of the 9th of June to the late Chancellor, which you have read to the Committee?—I will do so.

300. *Chairman.*] Will you be so good as to state what it is that you consider these documents prove?—That the Chancellor acting alone was considered to be the Chancellor and council. In my letter of the 22d of January 1855 to Mr. Danvers, I stated, "I must request you, from your long experience in the duchy business and attendance on the Chancellor and council, to be so obliging as to refer me to any and all the Acts of Parliament wherein it may be provided that bills for grants in fee of land of the duchy, inheritance of the Sovereign, should be signed by both the Chancellor and council, or by the attorney-general of the duchy, and the auditor; also to any and all the statutes in which special provision may be made for the parties not being the officers of the Duchy Court to be appointed members of the council of the duchy; also to any and all the Acts of Parliament, if there be any such, which debar the Sovereign from disposing of and applying the hereditary property of the duchy, at his or her will and pleasure." Mr. Danvers's reply on the same day, the 22d January 1855, stated, "The mode of passing grants in fee by bills is not by statutory enactment, nor is there any Act of Parliament making provision for the appointment of parties, officers of the duchy or not, as members of the council. The Duchy of Lancaster is the private property of the Sovereign, and the Queen or the Chancellor of the duchy, to whom is delegated authority to manage the affairs of the duchy, appoint such members of the council to aid and advise him in such management, as may be deemed expedient and advisable. The Statute of 1 Queen Anne, c. 7, is that under which the power to alienate the duchy property was first limited, but the powers have been enlarged by subsequent Acts, as you are aware. I have tried, but cannot attain a copy of this Act from the Queen's printer." I wish to observe that this is not a correct statement of the fact. It is true that the duchy estates are the private property of the Sovereign, but the Sovereign has only a life interest in them, and cannot alienate or consume the principal. The duchy property is a perpetual trust of a constitutional nature. If the Sovereign had power to delegate absolute power over the property, the King or Queen who might at any time be on the throne, might for the same reason exercise that power, him or herself, which is not the case; and all the valuations of the sales of the land, &c. belonging to the duchy, are for that reason invested either in landed property or in the funds. On the 30th January 1855, in the morning, I went to the Duchy Office to ask Mr. Danvers, the Clerk of the Council, to show me the original minute of the Council, for making a grant of land in Cross-lane, Salford, to Mr. John Brooks. Mr. Danvers not being in the office, I saw Mr. Gooch, the first clerk, who, at my request, showed me the minute dated the 19th of December 1854, it was signed by Lord Granville, and ordered the bill for the grant in question to be prepared. It did not record any council having been held on the 19th of December, and I therefore asked Mr. Gooch if the council had assembled on that day, to which he replied

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replied that it had not; that Lord Granville was there alone, to which he added, "The Chancellor is a council of himself." The clerk of the records, in his statement of the 31st January 1855, of the result of his researches to ascertain the origin of the auditor's signature to bills for grants in fee, &c., said: "The jurisdiction of the court of equity is concerned in the remedying of differences arising between party and party, and in affording redress in cases of intrusion upon the rights and franchises of the liberties of the Sovereign, *jure ducatus*. And this court is likewise a court of appeal from the vice-chancellor's court of the County Palatine of Lancaster. To the court of revenue belongs more particularly and immediately the control in matters where the interest and the management of the duchy estates and revenues are affected,. The Chancellor of the duchy presides and is supreme alike in the court of equity and the court of revenue; but the Chancellor and council of the duchy, is a mode of expression generally used to signify the executive and governing body in regard to the possession of the Sovereign *jure ducatus*, in contradistinction to the Treasury or other departments of the Crown revenues, when referred to in regard to the management of the estates and revenues *jure coronæ*. The Chancellor, however, is in effect the absolute head and ruler of the establishment. He acts either alone or with the assistance of the council, whose advice he calls in at pleasure, or when any matters of more than ordinary solemnity are to be discussed and treated of; but in those councils he invariably presides and has a veto, and in all transactions of ordinary occurrence his authority is absolute, and is exercised without reference to the council. The members of the council are selected and nominated by the Chancellor, and approved of by the council; and everything that is done with relation to the affairs and management of the duchy is presumed to be done by the Sovereign, with the advice of her Chancellor and Council of the Duchy, without interference or control from any other quarter whatsoever." I would wish to remark with regard to this statement, that when property is enfranchised in consideration of sums to be paid, the auditor's functions are required to see that the consideration money is equal to the value of the profit from manorial rights. His exclusion therefore from the council deprives the Sovereign of the security afforded by his check, and therefore affects the rights and liberties of the Queen. The auditor who is one of the court, checks both the revenue and expenditure of the duchy estates. His functions therefore are inseparable from any proceeding of the court by which "the interests and management" of the duchy estates and revenues are affected. The Chancellor presides, as the supreme judge, to define the law, and to determine it; but those supreme powers do not extend to those of legislation, by which the law is created. It has been shown by the observations of the clerk of the records on the first question, that the duties of the Chancellor, the attorney-general, the auditor, and the clerk of the council, were in their respective official capacities distinct, with reference to the passing of bills. It has been shown, upon the authority of Lord Coke, that the court was composed of those officers. It has been stated by the clerk of the records, in these observations, that the court and council are one and the same in their origin and constitution, and differ only in their functions and use. The Act of the 48th of Geo. 3, c. 73, s. 9, and the Acts therein referred to, under the authority of which the hereditary lands of the Duchy of Lancaster may be sold, requires the sale to be made by the Chancellor and council for the time being. This clause enacts that the sale shall be made in the same manner and form as pointed out in the therein recited Acts of the 38th and 42d years of Geo. 3. The Act of the 42d of Geo. 3, c. 116, specially requires that any sale which may be made should be by the Chancellor and council, and this enactment specially points to the duchy officers as exercising a survey over the hereditaments of the Sovereign, and requires the sums realised by the sale thereof to be invested. The Act of the 38th of Geo. 3, c. 60, s. 52, enacts that "every certificate for the sale of any part of the revenues of the Crown within the survey or receipt of the Chancellor and Council of the Duchy of Lancaster shall be in the form specified in the Schedule hereunto annexed, marked (E.)," and in the form it is stated that "the Sovereign, by and with the consent of the Chancellor and Council of our said Duchy, do by these presents grant, bargain, sell," &c. Sect. 53 of the same Act again alludes to the council and the officers of the duchy, and states that the property shall be sold for the best price and consideration which the Chancellor and council shall be able to procure for the same. The Chancellor may be the absolute head to perform and decide on all matters according to the law, but he cannot

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cannot be arbitrary against the Acts referred to. Where the authority is assumed and exercised in the disposal of the property of the duchy it is a breach, as I conceive, of the Acts of Parliament, which state "the Chancellor *and* council." It has been established by the memorandum that the court and council are the same, and that the court was coeval with the duchy. And I have shown, upon the authority of Lord Coke, that the court consisted of the officers of the duchy. The substitution, therefore, of other members, and without the authority of Parliament, is not, in my opinion, legal. But even the annexed statement is not in accordance with the statement of the clerk of the council to me, that the members of the council were not appointed by the Queen's patent. This shows that, as the auditor is one of the court or council, his signature to the bills is an advice to the Sovereign. It is, therefore, inconsistent and improper to ask him to sign, except as a member of the council. This last statement by the clerk of the records fully bears out the fact that, as the auditor is a member of the court of the duchy, so the office of auditor should not have been interfered with under the influence of the Government.

301. Notwithstanding the Acts of the reign of Geo. 3, showing that the Chancellor was bound to act with the council in all matters relating to the duchy property, he appears to have assumed absolute power in its management?—That appears to be the fact.

302. Did the duchy officials ever refer you to any statute or other legal authority in proof of their statement that the Chancellor of the duchy was both Chancellor and council, and that he was absolute in the management of the duchy property?—No, they never referred me to any statute whatsoever bearing those points out.

303. Do you consider that the part of the statement by the clerk of the records which attempts to claim an absolute power for the Chancellor over the property is at variance with the premises on which he establishes that the auditor has, from the earliest institution of the duchy, taken part in the preliminary proceedings necessary to effect any alienation or sale of the duchy property, and that such absolute power by the Chancellor of the duchy over that property is antagonistic to the special provisions of the Acts of Parliament to which you have alluded?—Most decidedly so. The statement of the clerk of the records shows, that to pass bills for the sale of the duchy property, it was necessary, first, that the surveyor should value the property and report on it; secondly, that his valuation and report should be submitted to the auditor; thirdly, that the auditor should pass the surveyor's report and valuation by a particular; fourthly, that that particular then formed the warrant for the bill; and the Acts of Parliament before alluded to invariably use the words "Chancellor and Council," and give no power over the property to the Chancellor acting singly.

304. Are you of opinion that the Act of 1st of Henry 4, alluded to in a statement by the clerk of the records, dated 22d December 1854, distinctly recognises the functions of the auditor without his being dependent on the pleasure of the Chancellor?—It certainly does.

305. Did you, by your letter of 2d February, and your remarks on the draft of instructions which you then returned to Earl Granville, allude to the duchy property as a trust of a constitutional nature for the Sovereign?—I did.

306. Did you by the remarks you made against the instructions respectively, clearly explain to Earl Granville that the effect of those instructions would be merely to prevent your giving to the affairs and accounts of the duchy the full and minute investigation which you considered they required, and that if you were to be bound by such instructions, your signature to the accounts might cover past irregularities and defalcations in consequence of the system of account heretofore adopted in the duchy?—Yes; and by my remarks I pointed out the manner in which that might occur by the defective system of account in operation.

307. What reply did Lord Granville make to those observations?—His Lordship, in his reply of the 2d of March 1855, said that he had carefully considered them, but that he did not think it necessary to discuss them, and enforced the regulations that he had drawn up with an amendment, which still more restricted the functions of the auditor.

308. A month's delay therefore occurred between your returning the draft of instructions to Earl Granville with your observations, and his transmitting the final copy to you, thus carrying the matter up to the 2d of March before anything definite was expressed to you on the subject?—That is the fact.

309. Is

309. Is that document amongst the papers which you mean to accompany your evidence?—Yes.

310. Did you on the 10th of March 1855, transmit to Earl Granville an elaborate statement of your inquiries into the origin and constitution of the duchy, and of the Acts of Parliament by which it was affected, in consequence of your having been called upon by the clerk of the council to sign the bills for the disposal of the duchy property?—Yes.

311. In that statement did you show that you had been required to sign, first, the bill itself, by which Her Majesty was advised to part with the property for the sum therein stated to be the best price and consideration money which could be obtained for the land, &c.; and secondly, a certificate at the foot of the bill, that it had been prepared pursuant to an order of the Chancellor and council?—I called his Lordship's attention to those facts.

312. Did you say that the following questions had consequently arisen in your mind, namely, whether your signature did not convey to Her Majesty the idea that you were an advising party to the sale for the money stated in the bill; whether you were not in duty bound, as "auditor," to ascertain, before signing the bill, that the particulars therein stated, were in accordance with the full value at which the property should be disposed of, and whether by your attaching (as you were required to do) the word "auditor" after your name at the foot of the bill itself, the Queen was not led to believe that as an officer of check, you had satisfied yourself that every protection had been afforded to the interests of the royal inheritance?—Those were the grounds of my inquiry, and I thus stated them to Earl Granville who was then Chancellor of the Duchy.

313. Did you, in the same communication to Earl Granville, allude to the facts that upon a mere allegation that the auditor was not a member of the court or council by virtue of his office, it had been stated to you that you were not to consider yourself an advising party, nor question the acts of the Chancellor and council, but that you ought to be obedient to the council; secondly, you ought to sign the bills, without inquiring whether the amount for which the property was about to be sold was its real value; thirdly, that the Chancellor was absolute, and was both Chancellor and council; and that consequently you were not to exercise any functions of check in reference to the bills you were called upon to sign, but that you were to sign them upon the mere production to you of the Chancellor's minute directing the bills to be prepared?—Yes; in my report of the 10th of March, I called Earl Granville's attention to all those points.

314. Did you also point out by that statement to his Lordship that you had consulted: 1st. Coke's Institutes, chapters 35 and 36, of part 4, which treated of the Duchy Court of Lancaster, and of the Court of Wards and Liveries as having been modelled after the plan of that court. 2d. The Acts of Parliament which were quoted in the bills themselves as those under which the sale of the duchy property might be effected, and also the prior Acts therein alluded to. 3d. The statement of the researches by the clerk of the records, as to the mode by which bills for the sale of the duchy property had been passed, showing that the court and council were the same in their origin and constitution. And, 4th. Your patent from the Queen; and by voluminous quotations from these authorities, did you not point out that the Chancellor was not (as he had been stated to be) absolute, and both Chancellor and council, but on the contrary, that he was bound to act jointly with the council in all matters relating to the government of the duchy property; that the auditor was, by virtue of his office, a member of the council of the duchy; that the lawful council of the duchy was that composed of its officers, and that the council as then composed, of parties holding no office of trust in the duchy and merely nominated by the Chancellor, was unauthorised by Parliament or the charters of the duchy; that the government of the duchy property was, by the charters and acts relating to it, confided to its officers who had each respective duties; that so far from the auditor being purely ministerial of the Chancellor's will and pleasure, he was, on the contrary, placed by the constitution of the duchy in a judicial position, and that therefore an unconstitutional act had taken place by excluding you from the council?—Yes, I conceive all those points to have been clearly proved by the statement of my inquiries; and I concluded by requesting that if I was wrong, it might be proved to me by its being shown by what subsequent laws those which I had quoted had been repealed.

315. Is your statement of 10th March 1855 amongst the other documents you intend

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intend shall accompany your evidence?—Yes, and I consider it of great importance that it should accompany the evidence; but as the document itself consists of 50 pages of manuscript, containing multifarious quotations from old Acts of Parliament, it may be inconvenient to insert it in the body of the Evidence. If, therefore, the Committee will allow it to form part of the Appendix, I will put it in merely to be referred to.

316. Was there ever any legal opinion shown to you, based on any other statutes or usage, to oppose the evidence you had thus collected?—No; none whatsoever.

317. Did Lord Granville take any notice of your statement of the 10th of March?—None whatsoever.

318. Notwithstanding the evidence produced by you to show that you were wrongly excluded from the council of the duchy, and that you ought not to be required to sign the bills, &c., without first checking the facts therein stated, and ascertaining that the sum to be paid to the duchy was the full value of the property about to be sold, was it not insisted on by the Earl of Harrowby, who succeeded Earl Granville, that you ought to sign such documents without making any other inquiry than that there was his minute or that of the council to authorise them; and were you not called upon by the clerk of the council to sign such bills?—Yes, that is proved by the 11th paragraph of the Earl of Harrowby's letter, which I have already read.

319. *Chairman.*] The document to which you have referred as the long document which you wished to put in, was forwarded by you, on the 10th of March, to Lord Granville?—Yes.

320. Did not Lord Granville cease to be Chancellor on the 31st of the same March?—I believe he did.

321. Mr. *Coningham.*] Were you required, on the 5th of July 1855, also to sign, under similar circumstances, bills by which Her Majesty was advised to constitute Mr. Frederick Dawes Danvers the sole trustee for property which had escheated to the Queen in right of her duchy, but which Her Majesty had ceded to the relatives of the deceased owner?—Yes.

322. Will you quote an instance of the kind?—Yes, a bill of this kind was submitted to me on the 5th of July 1855, by Mr. Frederick Dawes Danvers, to constitute him a trustee for the distribution of a grant of escheated property to Julius Focke. On the 5th of July Mr. Danvers writes to me, stating, "I beg to enclose herewith a bill for your signature; the minute directing it is dated the 29th of June." Then, on the same day, Mr. Danvers again writes to me, "Sir, Having to go to the Chancellor, I leave herewith the minutes of the 29th instant. You will see the minute, &c., Focke's escheat, on the third side."

323. *Chairman.*] Will you state the purport of the bill which you were required to sign?—The bill referred to is "to pass the duchy seals of the duchy and county palatine to a grant of a piece of land and dwelling-house, which had escheated to the Queen on the death of Julius Focke, of Wavertree, by reason of his representatives being foreigners, on trust to Frederick Dawes Danvers, Esq., to be sold, and the proceeds distributed amongst Focke's five brothers and sisters."

324. In what way do you consider that an irregular transaction?—I do not state it as an irregular transaction; I merely give it as an illustration that, in some instances, the property was wholly placed under the management of Mr. Danvers.

325. When you say that the property was under his management, do you mean that it was the property of the duchy or the property of individuals?—The property which had escheated to the Crown, and was therefore the property of the Crown, was granted to individuals and allotted to the clerk of the council to distribute.

326. When it was so allotted, and Mr. Danvers was made sole trustee, was the property so entrusted to him the property of the Crown or the property of individuals?—There were certain fees payable on those escheats, and, generally speaking, when a property has escheated to the Crown, a certain portion of that property is retained by the Crown (I believe a tenth), and the remainder only is distributed; consequently the portion which would have to be accounted for, and the fees upon the portions of the property would be regulated according to the whole amount of the property.

327. I want to know whether this property, so entrusted to Mr. Danvers as sole trustee, was, when so entrusted, the property of the Crown or of the individuals

individuals amongst whom it was to be distributed?—He was trustee for that portion of the escheated property which was granted to the individuals.

328. Viscount *Goderich.*] Was he trustee for the Crown, or was he trustee for the other parties?—For the individuals.

329. *Chairman.*] How then do you consider that to be any proof of his having constituted himself sole disposer of Crown property?—That I have not stated to be the fact.

330. I understood you to give this as an instance where Mr. Danvers had constituted himself sole trustee of property belonging to the Crown, or at least had the sole disposal of the property of the Crown?—No, that is not at all the meaning which I wish to be inferred from anything that I have said.

331. Of what is it then that you think this is an instance?—It shows, I think, that the management of the duchy in its details has been confided to a much greater extent than ordinarily exists in public departments, to the sole management of one individual.

332. Lord *Harry Vane.*] When property escheats to the Crown, is it not the case that the custom is for the Crown to surrender a portion of its rights, nine-tenths, and reserve one-tenth?—That I believe is the ordinary custom.

333. In this instance, is it not the case that somebody must have been called upon to carry out this ordinary custom?—Yes.

334. Was not it the case then that Mr. Danvers was appointed by the council to carry out the customary process?—Yes.

335. Then what is the precise charge which you raise against what was done?—I do not raise any charge; but I think it is usual where property is vested in trustees, to appoint, generally, more than one trustee.

336. Then what you mean is, that there ought to have been more than one trustee appointed; that two or three more should have been appointed to carry out this proceeding?—Yes; and I think that the auditor ought to have been one of those trustees, inasmuch as the auditor's book of enrolment contains the deeds which authorise the distribution of those properties, and also the enrolment of various deeds of title, and so on, in the office.

337. Viscount *Goderich.*] Were not Mr. Danvers' functions as trustee in this case of a purely formal character?—I believe that in the distribution of personal effects, there are certain laws which regulate the proportion which relatives claim.

338. *Chairman.*] Was it then possible for Mr. Danvers, supposing he had been so disposed, to have appropriated the proceeds of this escheated property in any other way than that which was prescribed by law?—I am not able to answer that question.

339. Mr. *Coningham.*] Did you require the vouchers for payments of money to be witnessed, and did you meet with opposition from the accountants and the Chancellors on this point?—Yes; with decided opposition.

340. What evidence have you to offer on that point?—I have the following evidence to offer on the subject; in the remarks which accompanied my letter to Earl Granville on the 16th of March 1855, I stated, "In my remarks on the previous incidental accounts, I pointed out that the vouchers were not supported by the signature of a witness to the payments; this observation has not been attended to, and the accountant has expressed an opinion that such evidence is unnecessary. It is however a rule of audit which public accountants of the highest grade are required to submit to, and is enforced by, the Audit Office, in the examination of the accounts of the Woods and Forests; I see no reason therefore why it should not be adhered to with the same precision in the Duchy of Lancaster, and as my wishes have not been complied with, that such evidence should be furnished to me, I have now to recommend to the court that an order be given directing all payments to be made in the presence of a third party, and that the vouchers be supported by his attestations in the following words: The above sum of (blank) pounds, (blank) shillings (blank) pence, paid on the (blank) day of (blank), in my presence; then the name. Here describe the usual place of residence of the party, or his daily occupation. A printed form of receipt might with convenience be used." In Mr. Danvers' letter to me of the 22d of March 1855 he says, "The Chancellor of the Duchy observes, that in your 'remarks on the incidental account furnished by the clerk of the council of the Duchy of Lancaster, for the period from 16th August to 6th December 1854,' you recommend that an order be given directing all payments to be made in the presence of a third party, and that

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that the voucher be supported by an attestation, and that you preface such recommendation by stating it to be a rule of audit which public accountants of the highest grade are required to submit to; and that it is enforced by the Audit Office in the examination of the accounts of the office of Woods and Forests. I am directed by the Chancellor to request you to mention your authority for the statement you make of the practice of the Audit Office as to the necessity of the signature of a witness to the payments." In my letter to Earl Granville, of the 23d of March 1855, I said, " My Lord, I have received a letter from the clerk of the council of the Duchy of Lancaster, dated 22d instant, alluding to the part of my remarks on his incidental account for the period from 16 August to 6 December 1854, which I submitted to your Lordship, recommending at the same time that the rule of audit in the examination of public accounts requiring the payments to be attested by the signature of a witness, should be applied to the accounts of the duchy. The clerk of the council states that your Lordship observes, that I 'preface' such recommendation 'by stating it to be a rule of audit which public accountants of the highest grade are required to submit to, and that it is enforced by the Audit Office in the examination of the account of the office of Woods and Forests.' He then proceeds to say, 'I am directed by the Chancellor to request you to mention your authority for the statement you make of the practice of the Audit Office as to the necessity of the signature of a witness to the payments.' I beg most respectfully to explain to your Lordship that I have not in any way brought under discussion the necessity on the part of the Audit Office of requiring the signature of a witness to payments, and that I have confined myself to the simple statement that such was the practice in the public service, and that I saw no reason why it should not be adhered to in the Duchy of Lancaster. My authority for stating the fact will be found first in the Commissariat Regulations, dated 1st March 1852, issued by the Lords Commissioners of Her Majesty's Treasury, under the head of 'cash,' at page 137, and Article 241, 'payments and procurations to be witnessed,' which is as follows, 'every payment, or procuration, or authority to receive money is to be verified by the signature of one respectable witness, unless the party to whom the money is due be unable to write, when two witnesses are required;' also, Article 342, viz., 'all accounts should have the necessary authorities, including certified copies of general orders and powers of attorney, attached to them; and when the same authority is to serve for a succession of payments, the period of the account, and the number of the voucher with which the authority is put up, are to be referred to on the receipts, for all subsequent payments,' The foregoing rules are adhered to by even the Commissaries-general (who rank with Brigadier-generals in the army) and do not send forward the vouchers for payment made by themselves without the signature of a witness thereto. Second. Before making any remarks on the incidental account of the clerk of the council, and recommending the adoption of the rule, I applied to a gentleman of the Audit Office to know what was the practice in his department on this point in the examination of the accounts of the Woods and Forests, as I conceived the business of that department to be analogous in many respects to that of the duchy, and he informed me that when those accounts were given him to be examined they were accompanied by instructions to be particular in requiring all payments to be witnessed." The Earl of Harrowby in his letter to me of the 4th of May 1855, states," With respect to your assertion that it is a rule of audit which public accountants of the highest grade are required to submit to, to have signatures to receipts attested by a witness, and that it is enforced by the Audit Office in the examination of the accounts of the Woods and Forests, which you follow up with a recommendation that an order be given directing all payments to be made in the presence of a third party, I desire to inform you, that having ascertained that such attestation would give no additional legal effect to a receipt, I have directed inquiry to be made respecting the practice you have mentioned, and I am informed by the Commissioners for Auditing Public Accounts, that it is not the practice or rule of the Audit Office to require the signature to vouchers or receipts for money to be attested by a witness."

341. *Chairman.*] Is there any observation that you would like to make to the Committee with regard to the substance of Lord Harrowby's letter?—Yes; this statement is quite at variance with the following facts. Having been called upon by Earl Granville to mention upon what authority I had stated the fact alluded to, I enclosed, in my letter of the 23d of March 1855 to his Lordship, copies of the 341st and 342d articles of the Commissariat Regulations, at page 137 of the Code,

Code, dated the 1st March 1852, drawn up by the Lords Commissioners of Her Majesty's Treasury, and printed for the guidance of the Commissaries-general in rendering their accounts to the Commissioners for Auditing the Public Accounts, by which every Commissariat officer is required in every case to obtain the signature of one witness to his payments; and where the party receiving the money from him cannot write his name, the payment is required to be witnessed by two parties, both of whom must, by their signatures, attest the receipt given by the mark of the recipient before it can be admitted as a voucher. Vouchers of this nature frequently come to the Ordnance from the Commissaries-general, and are always witnessed; nor has this regulation in any way been relaxed, for subsequently to the circumstances above alluded to, I was informed by Commissary-general Hewetson, who has been constantly employed up to the present time on military and civil duties for the Treasury, that the rule was most punctually adhered to. I may also state, upon my own knowledge of the rules and practice of the Public Departments of Audit, in which I have for 20 years held an appointment, that so rigidly is the rule enforced of requiring all payments to be witnessed, that any vouchers not so witnessed have been rejected in the accounts of the Ordnance storekeepers in Great Britain, Ireland, and the Colonies, who rank with field officers in the army, and other receipts, properly witnessed, furnished in lieu of them by such accountants. But besides the above, before making the remark and suggestion on the incidental accounts of the clerk of the council, I took the precaution to apply to Mr. Hoffay, junior, of the Audit Office, the son of the present Assistant Paymaster-general, who was in the Audit Office, and was one of Sir Stafford Northcote's Committee to inquire into the business of the public offices, and I was informed by this gentleman's son, (Mr. Hoffay, junior), that he had been given by his superior in the office the accounts of the Woods and Forests to examine, and at the same time was told by him to be particular in requiring the signature of a witness to all vouchers for payments. This fact is also mentioned in my letter of the 23d March 1855, to Earl Granville, but without stating the name of the party from whom I had received the information. It is a remarkable fact that a letter has been obtained from Mr. Macaulay, the secretary to the Audit Office, stating that vouchers for payments were not required to be witnessed which were rendered to the Audit Office.

342. Notwithstanding the statement which you have just made, are you still of opinion that the practice of the Audit Office was as you have described?—Yes; I was very much astonished when I saw such a letter, signed by the secretary to the Commissioners for Auditing the Public Accounts, because, as I have already stated, I had made inquiries from a party who was an accountant to the Audit Office, and who had been so for many years. Portions of the Commissariat accounts also came to the Ordnance Department and were examined there, and the rule was rigidly enforced in the very branch of the department to which I belonged. Since this, I have myself had confided to me the examination of the Commissariat accounts, which were formerly examined at the Audit Office, and a portion of the Audit Office establishment has been transferred to the War Department, to which I belong, and we adhere to the rule strictly in every case of the vouchersb eing witnessed.

343. Do you mean that the practice to which you now adhere was the practice before the transference of the audit of those accounts to your office; is that in your knowledge?—I understand it to have been the practice which the Audit Office enforced, and I have been given the Code of Regulations recently by the Director of the Commissariat for my guidance in examining those accounts, and in that Code of Regulations the same rule is contained.

344. Viscount *Goderich.*] I think the question which was put to you had reference to the practice of the Board of Audit in regard to the accounts of the Office of Woods; will you state whether, in spite of Mr. Maucaulay's letter to Lord Harrowby, you are still of opinion that the Board of Audit did require the signature of a witness in the case of the accounts proceeding from the Woods and Forests?—I have given the authority upon which it was stated to me, which was the examiner of the accounts. It was stated to me at the time, upon my asking that gentleman for information, he at that time being attached to the Ordnance branch of the War Department.

345. *Chairman.*] Here is the account of the contingent payments, which was put in at your desire yesterday from the Duchy of Lancaster Office; will you be so good as to look at the items contained in it, and state to which of those items

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you would propose that the signature of a witness should be affixed?—This is the account current, it is not the vouchers. It is the vouchers that ought to be witnessed; the payments to the vouchers for the sums stated in this account.

346. Do you mean that in the case of every single item which has entered into the account when it is produced with its voucher for you, there should be a witness to that voucher?—Most decidedly; that is the rule always followed in the public departments.

347. Lord *Harry Vane.*] However small the amount?—In the Ordnance Department we follow it to the smallest amount, but where the sums are very insignificant it is not followed out quite to that extent.

348. *Chairman.*] Will you read any one of the items in that statement which you think ought to have been witnessed?—I see that this account, which is for the period from the 15th of February 1854 to the 22d of May 1855, contains this item: "Travelling and personal expenses for Mr. J. H. Gooch, on his proceeding to Manchester to collect amounts due to the Duchy, 5*l.* 7*s.* 11*d.*"

349. Was the object of your suggestion that a payment such as that should be witnessed?—This sum would contain different items; if it was a matter of railroad charge, it would not be necessary, but if it was any sum which had been paid for which a receipt and a witness could be obtained, then it would be necessary. Next to that I find, "The Law Fire Office, one year's premium of insurance of the Duchy Office, Lady-day, 1855, under orders of the Court, the 13th of December 1826, and the 15th of February 1845, 16*l.* 8*s.* 6*d.*" Speaking from memory I think that had a witness. But of course if my remarks upon this account were produced (a copy of which I have not by me), they would show the exact items upon which I had called for witnesses to the vouchers.

350. In order that we may understand your meaning, that is an item which you would have suggested that a witness should attest?—Yes, decidedly. Then again I find, "Half-years House-duty on Lancaster Place, due Lady-day, under orders of the Court, the 6th of February 1843, and the 8th of December 1844, 2*l.* 12*s.* 6*d.*"

351. Should you have required a witness to that?—I think in the case of assessment, probably, there may have been some exception, because in that case the party is supposed to come to the exact residence and pay it, and there might or might not be a witness; that is perhaps an exception.

352. Will you take another item?—"The tavern expenses at the George Hotel and Freemasons' Tavern, upon holding the Savoy Easter quarter 1854, under order of the Court, the 11th of June 1795, 35*l.* 19*s.*" That is a case where I think most decidedly the receipt should have been witnessed.

353. Will you take another instance?—"The beadles of the Manor of the Savoy, their annual allowance in lieu of moneys formerly received from the burgess and almoners, due Easter 1854 under an order of the Court, 8th May 1815, 16*l.*" That sum is made up of various items, but I think most decidedly that in that case their receipts should be witnessed.

354. Now, will you look at your own signature to that account?—"Vouchers for the payment of the sums taken credit for in this account have been produced to me, and subject to the approval of the Chancellor of the duchy of those disbursements not previously authorised, I see no objection to this account being allowed by the Duchy Court of Lancaster, whereupon the sum of 32*l.* 2*s.* would be payable to Frederick Dawes Danvers, esquire, from the funds of the said Duchy. 2d June 1854. *F. R. Bertolacci.*" That, I think, was the result of some remarks which I made, and those remarks in the usual way received explanations, and after those explanations I put that certificate and allowed the bill, but not prior to the remarks being made, and to my being quite satisfied by some means or another that the payments were correct, and it was upon that account that I made the suggestion first, that the witnesses' names should be affixed to the vouchers, and which was repeated, I believe, in my remarks on a later account.

355. In truth, this is the original Contingent Payment Account upon which your observations were mainly founded?—That is one of them.

356. Can you give the Committee any idea of the sort of distinction, or the mode of drawing a distinction, by which any person bringing accounts to you to be audited, might have been guided, to know for what payments he should require a witness, and for what payments a witness might be dispensed with, since

since you say that some of them need not have been witnessed?—The distinction that I should draw would be simply this, that when a witness could not be procured, it might be dispensed with, but when it could be procured, it ought to be furnished. *F. R. Bertolacci, Esq.* 23 June 1857.

357. Viscount *Goderich.*] I think you stated a short time back that the practice to which you have alluded, of requiring a witness in the case of every receipt, was a general practice in the public departments?—Yes, where audits are concerned.

358. You mean to make that statement?—Most decidedly; it is a rule that I have always seen adhered to. Of course it is always subject to being overruled by the Accountant-general in one department, or the head of the department, who, of course, if he says he considers that an exception may be made to the rule, then it becomes an exception; but as a rule, all vouchers for payments of money are witnessed in the public departments.

Lunæ, 29° die Junii, 1857.

MEMBERS PRESENT:

Mr. Bramston.	Viscount Goderich.
Mr. Coningham.	Mr. J. Hans Hamilton.
Mr. Sotheron Estcourt.	Lord Harry Vane.

T. H. S. SOTHERON ESTCOURT, Esq., IN THE CHAIR.

Francis Robert Bertolacci, Esq., called in; and further Examined.

359. Mr. *Coningham.*] I THINK you have a document which you wish to put in?—I have. *F. R. Bertolacci, Esq.* 29 June 1857.

360. Will you state the points which you think are established in it?—The document, which is a statement containing observations by me, is dated the 2d of February 1855, and it is headed: "Duchy of Lancaster. Instructions for the Auditor as to the Accounts." This document contains the instructions that were drawn up by Lord Granville on 18 January 1855, and the observations which I made upon those instructions on 2 February 1855. I conceive that had I followed these instructions, I should have been led into the mere formalities of an audit, instead of giving the examination of the accounts and the business of the department that thorough investigation which I wished to do; and I consequently, in a number of observations against each instruction, pointed out how that inefficient audit would be performed by following these instructions. The draft of the instructions was transmitted to me upon the 18th of January 1855 and these were, in fact, the instructions on which I made my observation, and which were afterwards sent to me on the 2d of March 1855, after I had made the observations, but with no amendment which obviated the difficulties that I thought would be thrown in the way of the examination which I conceived the auditor should give to the accounts.

361. *Chairman.*] Is there any material difference between the paper which you now wish to deliver in, and the paper dated the 18th January 1855 which you handed in at your last examination?—None, I conceive, so far as the examination of the accounts goes. There was a small amendment which is material, but still not as regards the examination of the accounts, and that is with regard to the auditor's duties of seeing that the capital was invested. My observations were made upon the draft of the instructions, and were dated the 2d of February 1855; and those instructions were ultimately sent to me by Lord Granville as the instructions which his Lordship conceived he wished me to act up to.

362. Mr. *Bramston.*] When were those observations made?—Those observations were made on the 2d of February.

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363. They were sent to Lord Granville by his desire, and after that you had the answer on the 2d of March?—Yes, a definite document; and it was in those instructions that I pointed out what I have just stated.

364. *Chairman.*] There being no great difference between the two documents, do you desire that both of them should be considered by the Committee with a view to being put in the Appendix?—I do not consider it necessary that both of them should be separately put into the Appendix, because the amendment has been, I think, already referred to in some part of the examination. But my object in the present instance is to inform the Committee that I think this document very essential, inasmuch as it shows the working of the system of the examination of the accounts, and what I conceived (were those instructions followed) would be the effect upon the various duties of my office with regard to efficiently conducting it in its various departments.

365. The paper which you now hold in your hand is a draft of regulations or instructions, which in its present shape never received countenance from Lord Granville?—Those were the drafts of the instructions prepared by Lord Granville, or at least by his desire, in the office of the duchy, and transmitted to me by Lord Granville.

366. Were they not superseded by the document dated the 2d March, which you delivered in upon your last examination, and which contained the final intention of Lord Granville upon the subject?—Yes; but the final document as then transmitted to me by Lord Granville, and which contained, in almost every instance, a repetition of the draft instructions dated 18 January 1855, did not contain my observations against those instructions which Earl Granville repeated, and insisted upon being carried out. Consequently the remarks which I was called upon to make by his Lordship upon the various steps of the auditor's duties as dictated by his Lordship, are not shown in the original document which his Lordship transmitted to me, but which observations were added to the copy I returned to his Lordship, and which I conceive, showed that if I carried out what was dictated to me by the Chancellor, the discharge of my duties as auditor, would fall short of that perfect examinations and inquiry into the duties connected with my office, which I conceive should be the case.

367. Will you deliver in the document?—(*The document was delivered in.*)

368. Mr. *Coningham.*] Is it stated in the bills which the auditor signs preparatory to their being submitted to Her Majesty for her assent, that they are drawn up "by and with the advice and consent of the Chancellor and council" of the duchy?—Yes, that is what the bills state.

369. You have shown upon the authority of Lord Coke, that the court of the duchy was composed of certain principal officers, one of whom was the auditor; you have shown that during the reign of his late Majesty, George 3d, certain Acts were passed empowering the Chancellor and council with the Royal assent to sell the property of the duchy, which Acts are quoted in the bills signed by you which have been produced to this Committee, as being the authority upon which the property alluded to in such bills was sold; and you have shown by the official calendars published from information furnished by the public offices, that about the year 1844, when certain additions were made to the council, and a distinct list was made of the offices of the court which composed the council from those of the court which did not compose the council, the auditor, as auditor, was included in the council; will you therefore state to the Committee what your view of the auditor's signature was to such bills, and what Lord Harrowby stated to you was his view of the subject?—I consider that the auditor's signature to the bills was as an advising member of the council, and that his signature to the certificate was to certify that the bill had been passed by the council. Lord Harrowby said that I had mistaken the object for which the auditor's signature was affixed to the bills, which he stated was for the purpose of testifying merely that the bill was drawn in conformity with a "minute or order of the court;" and he alleged as a charge against me, who was the auditor, that I had persevered in retaining and acting upon my opinion in opposition to that of the court, and as I have shown that he was, by the officials of the duchy, considered absolute, and both Chancellor and council, therefore it amounted to stating that I had acted upon my own opinion instead of upon his Lordship's, as to what I vouched by my signature.

370. What was the date of that communication by Lord Harrowby, who was then the Chancellor of the duchy?—The 4th of May.

371. Was

371. Was any other communication made to you on the subject?—Yes, by the clerk of the council, who, in his letter of the 18th of May, said, "As the parties are pressing for their conveyances, I am desired by the Chancellor of the duchy again to forward to you the enclosed two bills for grants in fee, viz., one for a piece of land in Salford to Mr. Brooks, the other for a piece of land in Pendleton to Mr. Wetherall, and I am to request that they may be properly signed." The term "properly signed," I wish to observe, I conceive to be ambiguous. The question is not whether the bills were to be properly signed or in another way, but whether the auditor should sign them at all, as he had been excluded from the council of the duchy, and prevented from exercising a check upon the proper valuation of the property to be parted with.

372. Will you read your reply?—On the same day I answered as follows:—"Sir, I beg leave to return the bills for grants in fee to Mr. Brooks and Mr. Wetherall signed by me to certify in conformity with the order of the Chancellor. I had understood at an interview I had with the Earl of Harrowby the day before yesterday, that his Lordship wished to consider with the memoranda of subjects. I am now preparing by his command the question whether as a purely ministerial officer, I ought to sign the body of the bill in addition to the certificate at the foot of it, as the former was to convey no more than the latter; but as I understand that his Lordship has been to the office to-day I conclude he wishes to have the bills, and therefore I have affixed my signature in both places without postponing the bill even till to-morrow, when I hope, in obedience to his Lordship's orders, to submit the other subjects to him." Signed, "F. R. Bertolacci." To the bill which I then signed I affixed the following note to my signature, namely to the first signature to the bill which Lord Harrowby maintained was merely as a matter of form to certify that the bill was in conformity to the minute, but which, as I conceive, was to certify that I had thoroughly investigated all the subjects and matters stated in the bill, and that I advised the drawing up and passing of the bill. The certificate was as follows:—"Francis R. Bertolacci, Auditor, to certify the bill is in conformity with the order of the Chancellor of the duchy of Lancaster."

373. What was your object in attaching that attestation to your signature to the bill itself?—My reason was to prevent the possibility of Her Majesty supposing that I signed the bill as certifying to my own knowledge the correctness of what was stated in it, or that I had taken any part in ascertaining that the purchase-money was the best price and consideration which could be obtained for the property, as it was so stated in the bills I was required to sign without there being anything on the face of such documents to show that I was required to act merely as the instrument of other persons.

374. After this, were you called upon to sign any other bill?—Yes; on the 26th of May 1855, the clerk of the council placed before me a very long bill for grants of different pieces of land to the Duke of Newcastle, stating at the same time that it was necessary I should sign it without delay, as his Grace was going abroad; but on this occasion the clerk of the council said it had been decided that I should no longer sign the bills themselves, but merely the certificates at the foot of the bills.

375. Is that contained in a letter?—No, he stated that to me verbally, when I signed the bills. The clerk of the council further stated that they had been prepared pursuant to a minute of the council; I accordingly signed the certificate to the bill, and Mr. Danvers took it out of the room, but he brought it back again to me, and asked me to attach the word auditor to my signature to the certificate, and in the place where he had stated (by his letter to me of the 8th of June 1854) it was not necessary that the title of my office should be affixed.

376. Was there any correspondence to which you can now refer in evidence of the facts you have just stated?—Yes, there is a copy of my letter to Mr. Danvers of the 28th of May 1855, which, with the remarks I have to make on the subject, may afford some more information on the matter. With the permission of the Committee I will read that letter. On the 28th of May 1855 I wrote to Mr. Danvers as follows: "Sir, When, on Saturday evening, you brought me the bill for grants in fee of lands, &c. to the Duke of Newcastle for me to add the word 'Auditor' to the signature which I had already put at the foot of that bill, for the purpose of certifying that it had been prepared pursuant to an order of the Chancellor of the duchy, it did not occur to me (as on reflection it has since

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occurred to me considering that I am now desired not to sign the bill itself), that the usual addition of the word 'Auditor' to my signature in that place may carry with it an interpretation which you have not perceived, and which would be inappropriate and not such as I should wish to be inferred. As the duchy will not transact business to-day, nor to morrow, I suppose if I come to the office on Wednesday morning by a quarter before ten o'clock, I should be in time to re-peruse the certificate at the foot of the bill; but should that be inconveniently postponing the matter, I must beg you to be so obliging as to send me the bill for re-perusal before it is submitted to Her Majesty, for the sign manual, in order that I may erase the addition, should I find, on maturely considering the subject, that I may leave room for more than one conclusion. *Francis R. Bertolacci.*" It is well I should explain to the Committee that the incorrect inference herein alluded to, as that which might arise from the word "Auditor" being attached to the certificate to the bill is that the purchase-money, stated in the body of the bill as paid, had actually been so paid. While by the explanation given by the clerk of the council that statement (of the money having been paid) is merely a matter of form, that the bill may be in words what the grant will be. It occurred to me also that the word auditor might give rise to an inference that my signature to the certificate at the foot of the bill was in lieu of the "particular" and auditor's certificate formerly and constitutionally required to his examination of the report and valuation of the surveyor, preparatory to the bill being drawn up.

377. *Chairman.*] In what form of words then do you think that the matter relating to the purchase-money ought to have been drawn up; you think that it was irregular to have inserted in that bill that the money had been paid?—I do not state that it was irregular.

378. Give me any word that you please?—I merely wished to take care that the certificate did not certify to that which had not actually been the case.

379. Do I rightly understand that your objection to this new mode of signing was this; that whereas formerly you signed twice, but put the addition of the word auditor only to the first signature, you are now told that you are not to sign your name to the body of the bill, but you are to sign only the certificate at the end, and you are to put the word auditor to that?—Yes.

380. Mr. *Coningham.*] Had the Duke of Newcastle any connexion with the Duchy of Lancaster at that time?—Yes; his Grace was a member of the council of the duchy.

381. Was the Duke of Newcastle a member of the council by reason of any office he held in the duchy, or was he one of those members who had been nominated by the Chancellor of the duchy?—His Grace is one of those noblemen and gentlemen who have been nominated by the Chancellor for the time being to be members of the council.

382. By what Chancellor was he nominated?—I cannot say, because his Grace's name originally appeared, I believe, as Lord Lincoln, and I was not connected then with the duchy; it is many years ago since his Lordship was a member, and consequently I am not able to state the exact date.

383. Lord *Harry Vane.*] He had been many years a member of the council at this time?—Yes.

384. *Chairman.*] Was he nominated by Mr. Strutt, by Lord Granville, or by Lord Harrowby?—No.

385. Mr. *Coningham.*] Did the Duke of Newcastle ever act as Chancellor of the duchy?—Yes; his Grace acted as Chancellor of the duchy for Earl Granville in September 1854.

386. *Chairman.*] For about how long a time?—His Grace acted, I believe, from the month of September until Lord Granville returned to town about the month of October; I am speaking merely from memory.

387. Mr. *Coningham.*] Do the members of the council stand in the light of guardians or trustees for the duchy property?—As the Acts of Parliament relating to the sales and management of the duchy property give an authority to the Chancellor and council, and not to the Chancellor alone, and as all authorities are given in the name of the Chancellor and council of the duchy, it certainly appears to me that the Chancellor and council, whoever may legally constitute that council, are the persons to whom the guardianship of the property is entrusted.

388. Had you any intimation of the intention to sell the property to the Duke of Newcastle before you were called upon to sign the certificate to the bill for that purpose?

purpose?—I had no prior intimation of the intention on the part of the Chancellor and council, nor was I at all aware of the matter until the bill was placed before me to be signed.

389. Do you remember how much was paid for that property by the Duke of Newcastle?—I remember that it was a large sum, and by the accounts for the year 1855 I see that it was 4,219 *l.* 6*s.* 6*d.*

390. Can you state the quantity of land that was sold to the Duke of Newcastle?—I am not able to state the exact quantity of the land; the bill was placed before me on my going to the office; I was then required to sign it forthwith. I had not time even to look to the inrolments of the matter, so urgent were the demands upon me for my signature, in consequence, as it was alleged, of the Duke of Newcastle going abroad; but I read the minutes, and from those minutes I recollect that there were various parcels of land, and scattered, I believe, in different places.

391. When your signature was ordered by Lord Harrowby to be discontinued to the bills for grants in fee, was any one else directed to sign them in your place?—Yes; it was ordered that henceforth the clerk of the council should sign them where the auditor had heretofore signed them.

392. Will you explain to the Committee what the effect of this change was in reference to the cheques which had heretofore existed by the auditor's signature?—Formerly the clerk of the council signed the bills, and not the auditor. He signed them to certify that they were in conformity with the particular which had been prepared by the auditor, upon the valuation and report of the surveyors being submitted to him. After that, and I believe it was in the year 1844, when the auditor sat in the council, it was conceived he could carry out the same object by attaching his signature to the bill, instead of the clerk of the council doing that for him which he had heretofore done by his signature, and under those circumstances the particular was discontinued. The auditor therefore vouched directly himself to that which the bill contained, instead of the clerk of the council vouching that he had gone through the ordinary course to prepare the substance for the bill. The change which has taken place has had this result, that now the clerk of the council signs the bill, as he did before the change of 1844, but not upon any particular or document produced by the auditor of what he had done to ascertain that the substance of the bill was in conformity with proper valuations, &c., and with the enrolments. But the clerk of the council now signs it after the auditor has been excluded from the council, and without having that document before him which was his voucher for his signature, namely, the auditor's particular. The effect, therefore, of these changes, is to place the clerk of the council's signature in the place of the auditor's, and to remove those functions from the auditor which he had before the year 1844 performed in reference to the passing of the grants of the property of the duchy.

393. After these proceedings, were you called upon to sign any other sale of the duchy property before the Earl of Harrowby superseded your patent in the month of August, 1855?—No, I was not called upon to sign any other bills for grants in fee of the hereditary lands of the duchy; there were some other things which I signed.

394. Is there a book, called the Auditor's Book of Enrolment, in which such grants are enrolled?—Yes.

395. Where is that book kept and in whose custody?—It is kept at the duchy office in the charge of the first clerk, who acts as deputy to the receiver-general.

396. Is there not a book also kept in which leases are enrolled; and in whose custody is that book kept?—There is, and that book is also kept in the duchy office, in the charge of the same officer.

397. What is the second book called?—I believe it is called the Enrolment of Leases Book.

398. What is the effect of the enrolment of such leases and sales of property?—The effect is that when a lease is enrolled the receiver-general is charged with the collection of the rent; when a sale or, as it is called, a grant in fee is enrolled, he is discharged for the amount of rent for that property which should otherwise appear in the account which he has to render to the auditor.

399. Then has not the receiver-general's deputy charge of the books by which the receiver-general is charged and discharged of the sums he has to collect?—That is what I understand the case to be, according to the system at present in operation.

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400. Can you assign any reason for the auditor's book of enrolment, as well as the enrolment of leases book, which appear to be the check on the receiver-general, not being kept in the custody of the auditor?—I know no reason nor can I assign any other than that it appears to me, from the universal opposition which my inquiries met with from every one connected with the duchy, that the auditor was expected to be a mere nonentity, who should take everything for granted that was laid before him. The very oath which the auditor takes points to his being the custodium of the records of evidence.

401. At what period were the accounts of the duchy for the year 1852 passed?—They were passed in May 1854 by my predecessor.

402. You have said that you were appointed by your patent dated 15th May 1854, which was sent to you some days afterwards. At that time was the account for the year ending the 29th of September 1853 made out?—I believe it was made out whilst Mr. Lockhart was in office as auditor, but I did not see it until the 23d of May 1854.

403. Did you see anything in the account for 1853 which led you to think that the balance of the previous account was incorrect?—Yes. There was a sum of 50 *l.*, with which the receiver-general debited himself as having been an over-credit taken in his previous account for the year 1852. It is as well that I should read the particulars of that 50 *l.*

404. *Chairman.*] Is the account which you now have in your hand, and from which you are about to read, the account of the year 1853, laid before you in May 1854, immediately after you were appointed auditor?—The 50 *l.* which I have alluded to, was an over-credit to the receiver-general on the accounts for 1852, which, in the account which was laid before me for 1853, he debited against himself to rectify the error.

405. Is that entry, whatever it was, to be found in the accounts of the year 1853, laid before you immediately after you were appointed auditor?—Yes; the 50 *l.* was at page 1 of the account for 1853, with reference to timber. My remark upon that is this: "This error arises not from any deficiency of amount paid over to the bankers on account of the sale of timber, but from the receiver-general having taken credit in the account to 29th September 1852 for a larger sum (500 *l.* instead of 450 *l.*) than was due or actually paid into the bank, thus diminishing the amount of balance by the sum of 50 *l.* with which he was chargeable to 29th of September 1852, and, therefore, in the account to the 29th of September 1853 he charges himself with that amount to rectify the balance." The account in which this 50 *l.* appeared was from Mr. Legard, the surveyor of woods and forests, dated the 20th of March 1851. The account was not certified by the auctioneer, being for sale of timber; neither the quantity sold nor the deposit-money paid by the respective purchasers are stated. The advertisements for the sale are charged for, but no paper accompanies the account to show where the advertisement was inserted.

406. Do you wish the Committee to infer, from the instance that you have now given, that there was an inaccurate mode of keeping the accounts prior to the time when you became auditor?—Yes. I conceived that the whole system by which the accounts were kept in the duchy was not such as afforded a ready check, and such that the balance of the account was a test against error.

407. In the case you have given us do you believe that this 50 *l.* which is stated not to have been received, but to be connected by a subsequent account, was received or was not received by the receiver of the duchy?—The 50 *l.* was not received, but a larger amount of credit was taken in the receiver-general's account by 50 *l.*

408. Do you wish the Committee to infer from that, that a larger sum was taken credit for prospectively, than it turned out eventually the property realised?—No; the credit was upon a transaction which had gone by.

409. Will you be so good as to explain in what manner?—The error arose from the receiver-general taking credit in his account to the 29th of September 1852 for a larger sum by 50 *l.* than was due, or actually paid into the Bank, thus diminishing the amount of the balance in his account against him by that amount.

410. Having thus made that discovery, was it an incorrect mode of remedying that error by giving himself credit for 50 *l.* on the following twelvemonth?—It was not an incorrect mode of remedying the error; I have not found fault with the remedy, I have merely pointed out the error as regards the system; not that I charge

charge anybody with fraud or any misapplication of the money. I point it out as the result and the example of an erroneous system of account.

411. Mr. *Coningham.*] Did you make any inquiry as to the cause of this previous over-credit, and why the account in which it appeared had not been passed by the auditor for a year and a half after the date to which it extended?—Yes; and the reason assigned by the deputy of the receiver-general was, that the account had been kept open as long as possible, to afford an opportunity to Earl Granville of paying the arrears of rent due by him for some mines; but that at last it was necessary to close the account and make the return to Parliament, and that in the hurry of doing so the error had occurred.

412. *Chairman.*] Was that reason assigned to you verbally or in writing?—Verbally.

413. Lord *Harry Vane.*] By whom?—By the deputy to the receiver-general.

414. Mr *Coningham.*] Can you state the sums paid by Earl Granville in each year, and the amount remaining in arrear by his Lordship on account of each year, for any period of years?—The following appeared by the books of the duchy to be the state of the account with his Lordship, namely, in the account for 1851, arrear brought forward from 1850, 4,276 *l.* 6 *s.* 5½ *d.*, to which was added the rental, 2,607 *l.* 16 *s.* 8 *d.*; total due to Michaelmas 1851, 6,885 *l.* 3 *s.* 1½ *d.*; property tax, 200 *l.* 16 *s.* 3 *d.*; received 2,219 *l.* 17 *s.* 0½ *d.*; property tax, 64 *l.* 14 *s.* 10 *d.*; arrear remaining on account of 1851, 4,665 *l.* 6 *s.* 1 *d.* In the account for 1852, the arrear brought forward from 1851 was 4,665 *l.* 6 *s.* 1 *d.*; the rental, 2,742 *l.* 7 *s.* 2 *d.*; total due, 7,408 *l.* 13 *s.* 3 *d.*; property tax, 216 *l.* 1 *s.* 7 *d.*; received four sums of 1,000 *l.* each; arrear, 3,408 *l.* 13 *s.* 3 *d.* In the account for 1853, the amount brought forward was 3,408 *l.* 13 *s.* 3 *d.*; the rental, 3,225 *l.* 6 *s.* 9 *d.*; total due to Michaelmas 1853, 6,635 *l.*; property tax, 310 *l.* 3 *s.* 8 *d.*; received, 630 *l.* and 1,562 *l.* 11 *s.* 7 *d.*; the arrear was 4,442 *l.* 8 *s.* 5 *d.* In the account for 1854 was brought forward 4,442 *l.* 8 *s.* 5 *d*; the rental was 4,500 *l.* 18 *s.* 1 *d.*; total due, 8,944 *l.* 6 *s.* 6 *d.*; property tax, 310 *l.* 3 *s.* 8 *d.*, and 196 *l.* 19 *s.* 1 *d.*; received, 1,216 *l.* 1 *s.* 8 *d.*, 1,566 *l.* 2 *s.* 4 *d.*, 1,660 *l.* 4 *s.* 5 *d.*, and the sum of 1,000 *l.*; the property tax upon the first sum is stated as 216 *l.* 1 *s.* 8 *d.*; there is a blank against the second sum, and against the third sum it is 94 *l.* 2 *s.*; arrear, 3,501 *l.* 18 *s.* 1 *d.* I have to remark that those sums which I have just read were taken from the books, and that through the whole of them there appears an error of a pound carried through from one end to the other.

415. Mr. *Coningham.*] Do the amounts paid to the duchy by Earl Granville correspond with the sums entered in the accounts laid before Parliament as having been received from his Lordship?—No, they do not appear to correspond, whilst the sum said to have been paid by his Lordship corresponds with the rental falling due; for example, in the year 1851, the amount said to be the rental falling due and paid, was 2,607 *l.* 16 *s.* 8 *d.*, but the sum appearing by the books to have been received was only 2,219 *l.* 17 *s.* 0½ *d.* In the account to Michaelmas 1852, the rental falling due was 2,742 *l.* 7 *s.* 2 *d.*; that is stated in the return to Parliament, printed upon the 6th of April 1852, to have been paid by two sums, or at least on account of two sums, namely, 1,813 *l.* 12 *s.* 6 *d.* for coals, and for ironstone, 928 *l.* 14 *s.* 8 *d.*, making the sums stated. The actual sum appearing as having been received in the same year is 4,000 *l.*

416. Viscount *Goderich.*] Being much larger?—Being in sums of 1,000 *l.* each.

417. Lord *Harry Vane.*] That is the actual sum received?—As appearing by the books that I saw. In the account to Michaelmas 1853, similar sums, said to have been paid in, were for coals, 2,436 *l.* 4 *s.* 7 *d.*, and for ironstone, 789 *l.* 2 *s.* 2 *d.*, making 3,225 *l.* 6 *s.* 9 *d.*, which corresponds with the amount put down in the books as the rental. The actual sums paid in, as appears by the books from which I took this memorandum, were 630 *l.* and 1,562 *l.* 11 *s.* 7 *d.*, making together 2,192 *l.* 11 *s.* 7 *d.* In the account to Michaelmas 1854, the sums stated in that return to Parliament to have been paid by Earl Granville were, for coal, 3,131 *l.* 5 *s.* 3 *d.*, and for ironstone, 1,369 *l.* 12 *s.* 10 *d.*, making together 4,500 *l.* 18 *s.* 1 *d.*, which again corresponds with the amount stated in the books as the rental. The sums actually paid in, were 1,216 *l.* 1 *s.* 8 *d.*, 1,566 *l.* 2 *s.* 4 *d.*, 1,660 *l.* 4 *s.* 5 *d.*, and 1,000 *l.*, which I think you will find make 5,442 *l.* 8 *s.* 5 *d.*

418. How much was stated in the return to Parliament to have been paid by Earl Granville in 1851?—£. 2,607. 16. 8.

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419. And what is the sum which actually appears in the books of the duchy to have been received?—£. 2,219. 17. $0\frac{1}{2}$.

420. Viscount *Goderich.*] The items of which you have been speaking are those which are entered in these accounts as sums paid by the representatives of the late Earl Granville?—Yes.

421. Lord *Harry Vane.*] Are you aware whether the habit is to pay on account; are you at all cognisant of the matter of these payments?—I am not aware of any particular law or usage upon the subject.

422. You do not know what the usage is with respect to payments for coals and iron held under the duchy?—I believe the one is for rent, and the other is for royalty. The one is for the rent of the mine, and the other is for the royalty of what is brought out of the mine, I believe.

423. The dead rent would appear, would it not?—Yes.

424. But the sum to be paid for royalty subsequently would not appear at once, because it is not ascertained till the quantity has been drawn?—No.

425. Do you not imagine that that is the cause why certain arrears appear?—No, not wholly.

426. What is your reason for thinking that that is not the cause?—Because I have met with a minute in the course of the examination of the accounts in which the distinction was made between the amount for the royalty and the amount for the arrear; at least it showed what the proportion was.

427. Have you a copy of that minute?—No, I never took any copy of a minute from the office.

428. You are speaking verbally, from your recollection?—I am speaking from my recollection, and from memoranda which I made in the course of my examination of these accounts.

429. Then you did make memoranda at the time?—Yes, on 12 June 1855.

430. Are you in possession of those memoranda?—On the 12th of March 1853 it came under the cognisance of the Chancellor that the arrear of rent due by Earl Granville to March 1852 was 3,408 *l.* 13 *s.* 3 *d.* which I think will be found to correspond with the amount which I have already stated, and that the portion of this sum which was due for royalty was 2,742 *l.* 7 *s.* 2 *d.* That was treated on March 1853 as an arrear of the account to Michaelmas 1842.

431. But till the end of the year the account would not be made up, would it, with respect to the royalty?—The whole of the system by which these accounts had been kept at the duchy was so confused for any purposes of examination, that it was exceedingly difficult to state when and where, and how, those sums were paid. All I can say is this, as I shall have occasion to mention in the course of the examination, that when I asked with what date the balance of the account corresponded, the answer was "No date." And these sums, which were received by the receiver-general, or practically by the deputy to the receiver-general, and which were due upon an account to Michaelmas, for example, we will say of 1852, might not have been paid in for several months afterwards, yet they would then go to discharge the account for the year to Michaelmas 1852, so that when the account was rendered to the auditor the account of Michaelmas 1852 would be relieved of the debt which really on the 29th September 1852, that account was burthened with. Of course, as I am not provided with the books, and as an interruption of the proceedings intervened, I cannot speak with positive certainty upon the data as to the amounts; I can only speak of what occurred when I was at the office.

432. Does not it appear that larger sums have been paid in occasionally than were actually due?—Yes; and more particularly, I believe, in the year 1854.

433. *Chairman.*] Did you consider it to be part of your duty, as auditor, to ascertain the exact state of the balances on both sides for each of the years in which the accounts were submitted to you?—I conceive that an auditor's duty, according to my interpretation of the matter, is to be unfettered, and to make every inquiry, irrespective of the nature of the items, that he possibly can, by anything that suggests itself to him at the time, for the purpose of thoroughly fathoming everything that is put before him.

434. Did you consider it to be part of your duty, as auditor, to ascertain the exact state of the balances on both sides for each of the years in which the accounts were submitted to you?—I think it was my duty to ascertain that the balances brought forward corresponded with something that would show that those sums which

which might affect the balance brought forward at the end of the account were not incorrect.

435. Were the accounts presented to you in such a shape that you were enabled to ascertain what the balances were upon both sides during the year you were auditor?—No; there was great difficulty in ascertaining that fact, as will appear hereafter in the course of this examination.

436. Did you make an audit of the accounts during the twelve months that you were auditor?—There was no complete audit of the accounts.

437. What was the date to which the balances ought to have been carried out, and the audit completed?—The accounts laid before the auditor were not, as ordinary accounts are, based upon a regular system of cash-book and ledger, by which any date of the payments and receipts could be defined, or rather by which the examination of the creditor could go up to a particular date and there stop. The transactions were intermixed in various manners. The accounts themselves laid before the auditor were rather statements compiled from various books, enrolments, fee fund accounts and other documents, but without being brought into the shape of a journal or ledger beforehand, and consequently many of the sums which were brought into those accounts were affected by various transactions which did not correspond with the exact date of the account.

438. To what date did you make up your audit of the year you were in office; did you make it up to any date?—The accounts were rendered yearly; the account of 1852 was rendered to my predecessor, and which, for reasons which will be seen throughout the whole of this evidence, the audit of that account was materially delayed. I wished then to take that account up jointly with the year 1854 account, but the excuse was made to me that they could not render the account for the receipts and disbursements in 1854, because I chose to retain, for reasons of check, the account of 1853.

439. Will you give me any date to which you made up the accounts of 1853 or 1854. Did you make up the accounts of 1853 or 1854 to any date?—It is not possible to fix on any date. The accounts were made up in that form that it was not possible to progress to any particular date in that account to which it could be said the audit had extended.

440. Then, in fact, did you make up the account of 1853 to any date or not?—I did not, to any particular date.

441. Did you make up the audit of the year 1854 to any particular date or not?—No, not to any particular date. I audited portions of the account, but in the mode in which those accounts are rendered one is continually brought back to prior dates and forward to other dates, because the account is a compiled statement under various heads, each of which takes up portions of different dates.

442. My understanding of the word audit is a striking of a balance, and settling how much is owing on both sides. Did you ever arrive at that sort of an audit for the year 1853 or the year 1854?—No.

443. Viscount *Goderich.*] I see that in these accounts there is a statement of the arrear of rent due in each particular year; is not that so?—Yes.

444. Do you know whether the arrears of rent due from Lord Granville are included in those accounts?—I suppose them to form part of the sum which comes under the head of "Stafford."

445. Consequently in the year which you have stated that Lord Granville paid a larger sum than appears under the head of rent in these accounts, I suppose that sum will appear indirectly in the shape of a reduction in the arrear of rent on a subsequent page?—It ought to do so.

446. Do you know whether it does or not?—I am not aware that it does, beyond the accounts that have been rendered to Parliament.

447. Have you, as auditor, any responsibility for any portion of those accounts which are rendered to Parliament in the form in which they are drawn up?—I have no responsibility for the form in which they are drawn up, because that, as was afterwards proved, was decided by the Lords of the Treasury under the Act which required the accounts to be rendered to Parliament.

448. But I understood you to state, that in 1851 and 1853, a larger amount is stated in these accounts to have been received from the representatives of the late Earl Granville than you believe actually to have been received by the duchy in those years?—What I have read is from the books of the office, and consequently to that extent I have given the evidence which I believe bears out what your Lordship says.

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449. *Chairman.*] In one paragraph of your petition, you state, "That as Earl Granville was Chancellor of the Duchy at the time of this communication, your petitioner did not yield conviction to the correctness of the statement of his Lordship having been a defaulter in payment of rent to the duchy on the mere assertion of that fact, your petitioner's first impression being that, if any deficiency existed in the cash accounts of the deputy of the receiver, there might be an equal possibility of the name of a nobleman holding so high a position being used in this manner to prevent inquiry." You having stated that in your petition; does that default in payment of rent by Earl Granville relate to those arrears and sums received, of which you have now given us in your present examination the particulars?—I will state the exact particulars upon which that paragraph was inserted in that petition. Of course, in a case of this kind, I can only state what did transpire; for verbal communications, documents cannot be produced, but I will state the exact facts. When I asked the deputy of the receiver-general, in September 1854, to state to me why the accounts were not passed for 1852 until May 1854, his answer was that they had been kept open as long as possible, to allow Earl Granville to pay his rent; and, in conjunction with that, he mentioned that at last it was necessary to make the returns to Parliament, and that in the hurry an error of 50*l.* occurred. When this communication was made to me, it was made to me in this manner: the party making that communication shook his head, knitted his brow, and gave me to understand that there was something very ominous underneath the whole proceeding. I went then to a gentleman holding a very confidential position under the Government, and I said to him, "Now, what am I to make out of this? Is it at all likely to be true? I do not think that Lord Granville is a man who would allow his rent to be unpaid." And his answer was this: "I do not think it is at all likely;" and he adduced some private reasons also for supposing that it was not the case; and it was not until after that period, when I was looking into the accounts, that I found that really there were grounds, such as I have stated now, for the statement which was made to me. Now these are the facts of the case as relates to that paragraph, which I have stated in my petition.

450. I must repeat to you the question which I before put, which is simply this: does that paragraph in your petition relate to the facts concerned in those four years, of which you have given us the particulars, namely, 1851, 1852, 1853 and 1854?—That paragraph has reference to the statement which was made to me; and that statement, as I have stated, I did not at first yield conviction to; and afterwards I found that what had been stated to me was borne out by what I have just alluded to.

451. Does that statement, whether made by you or to you, upon which you found the words that I have quoted, relate to those transactions between Lord Granville and the duchy which are comprised in the four years 1851, 1852, 1853, 1854?—I think that question could be more precisely answered by the party who made the statement to me; but as far as I am cognisant of the matter, I should say that what he alluded to when he made that statement to me were these arrears.

452. Having now given us those particulars, and finding that the sum due by Lord Granville was 13,074 *l.*, and that the sum received from him was 13,853 *l.*, are you still of opinion that he could be called a defaulter in the payment of his rents during those four years?—The statement made to me was in September 1854, and I find that in the accounts to September 1854, the total sum paid in by his Lordship was 5,442 *l.* 8 *s.* 5 *d.*

453. That is for the year?—Yes; whilst the arrear brought forward to that account for the previous year was 4,442 *l.* 8 *s.* 5 *d.*; and as I have already stated, it is impossible for me to say whether upon any particular date that arrear within those periods did exist, because it was the practice not to strike a balance upon any particular date as to what was the cash transaction then, but to pass sums to the credit of the account to the 29th of September, which in point of fact were not received till several months afterwards. Therefore, it is very possible that on the date of the communication to me by the deputy-receiver that Lord Granville was in arrear, he actually was in arrear.

454. At the beginning of this series of years, was not Lord Granville's estate, or his father's representatives, in arrear to a considerable amount, from the year 1850?—The amount brought forward in the accounts for 1851 as the arrear upon the account to September 1850, was 4,276 *l.* 6 *s.* 5½ *d.*, but it is very possible

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possible that the arrear was very much larger than that; because, as I have said on several occasions, sums which might have been paid in after September 1850 might have been carried to the account of 1850, though really upon the 29th of September 1850 they were in arrear; therefore, if an account had been struck upon the 29th of September as to what were the sums paid up to the 29th of September 1850, the amount might have been very much more than 4,276*l.* 6 *s.* 5 ½ *d.*

455. Supposing there was a constant arrear during those four years of the sum, say of 4,000 *l.* and upwards, still, seeing that the sum which became due was 13,074 *l.*, and that the sums paid in were 13,853 *l.*, are you still of opinion that the circumstance of Lord Granville having a current arrear of about 4,000 *l.* would have been a sufficient reason for there not being in any particular year a complete audit and balance of the accounts?—I do not see what the one should have to do with the other.

456. Viscount *Goderich.*] It appears that, in each year, upon these accounts there was a sum due on account of arrear of rent, very much larger than that which you have stated to have been due by Lord Granville; consequently, I suppose there were other persons in arrear of rent as well as Lord Granville?—The statement laid before Parliament showed various persons in arrear of rent; but my attention was only drawn to that of Lord Granville's by the statement which was made to me in September 1854.

457. Lord *Harry Vane.*] But the fact is, there were other persons also in arrear?—Yes.

458. *Chairman.*] Looking at the account of the revenue for the year 1854, I see that the names of the parties in arrear are not given, but the arrears are carried out by counties; is that so?—That appears to be the case by the Appendix to the account rendered to Parliament, to Michaelmas 1854.

459. Do you know whether there is in the body of that return any statement of the names of the parties who are in arrear?—No, I do not see any statement of that kind; the system of account was not such as to furnish that information.

460. Consequently, whether Lord Granville at that time was in arrear 2,000 *l.* or 6,000 *l.*, the circumstance would not be apparent by the return?—No.

461. Mr. *Coningham.*] Did the deputy of the receiver-general state how he discovered the error of 50 *l.* in the account for 1852, for which he had given credit to the duchy in the account of 1853?—Yes; he said he discovered the error by comparing the banker's book with the amount paid in, or rather comparing his book with the banker's book.

462. Did you then test the balance of 7,673 *l.* 6 *s.* 1¾ *d.*, brought forward from the account of 1852 to that of 1853, which you were then examining?—I tried to do so; but from the defective system of accounts kept in the duchy, or rather by the deputy of the receiver-general, I could not ascertain of what sums the amount outstanding was composed. I therefore asked the deputy of the receiver-general to state, on a piece of paper, the sums of which the balance of 7,673 *l.* 6 *s.* 1¾ *d.* consisted; but, although he tried to do so, he could not give me an account of the sums of which the balance outstanding was formed, and at the end of the day I left the office without his giving me any such statement.

463. Did he, at any later date, give you an explanation of the balance which you asked for?—No.

464. Did you ascertain the dates of the balances brought forward from one year's account to another?—I endeavoured to ascertain that fact, but could not do so. When I asked the clerk of the duchy who rendered the account to the receiver-general with what date the balance of 7,673 *l.* 6 *s.* 1¾ *d.* in the hands of the receiver-general corresponded, his reply was, "No date;" and as I have stated in my petition, I then ascertained that up to that time there had been no journal of receipts and payments, nor any cash account corresponding with any period of account rendered to the auditor; at least such was the answer then made to my inquiries on the subject.

465. Could you use the banker's pass-book as a cash-book and a check upon the cash transactions of the duchy, or of the account rendered to you by the receiver-general or his deputy?—No, it was not possible, without, on the occasion of every reference thereto, re-examining and disentangling the accounts of past years, the payments on account of the period for which the account was rendered, and the accounts of the subsequent periods to that account.

466. How do you explain this?—By stating that the gross amount of the

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receipt on account of the different branches of the revenue were not paid into the bank, neither were the sums paid in always the net amount received on account of any particular branch of the revenue. For example: the deputy of the receiver-general paid various stipends and small salaries in the county out of the sums he received for rents, whilst such stipends were not charges upon the rent. The woodwards submitted to the receiver-general balances of their accounts, which balances were not the result merely of wood sold, less the charges for cuttings and sales, but were the balances of accounts current after receiving advances from the duchy, which were added to the sums received as the revenues from the forests. Neither were those accounts current for the exact period of the receiver-general's account; nor were they for broken periods, making up the period for which the account was rendered; but they were sometimes for a period commencing before it, and terminating during it. In other instances, the proceeds of grants in fee, which have been made during the period of an account, and have appeared in the inrolment book during that period, have actually been received some months prior to their inrolment, and have been paid to the account of the year before. As an instance that the banker's book could not be used as a cash account, the deputy of the receiver-general who rendered the account stated, that the cash account could not agree with the accounts as they were now kept; that if the accounts were to be kept on the plan of debtor and creditor, the principle would be totally different from that of charge and discharge on which they were now kept.

467. What was the date of that?—That statement the deputy receiver-general made to me in September 1854.

468. Did he make it verbally?—Yes, verbally. In the accounts which are kept by the clerk of the council, as the receiver of green wax, there are various sub-accounts, viz.: by various county officers not appointed by the duchy, but by the sheriff; by bailiffs of Pontefract appointed by the duchy; by Mr. Charles Payne, forfeitures; answers to Exchequer, appointed by the duchy; by the sheriff of the county palatine of Lancaster; by the clerk of the Crown for the same county; by the clerk of the peace for the same county; by the prothonotary of the Common Pleas, for the same county; by the coroners for the same county; by the clerk of the peace for the boroughs in the same county; receiver of the High Peak, Mr. Richard Juklin. This party renders a separate account, from which he deducts salary to himself, and small salaries to his collectors in poundage; no cash account of the duchy can therefore be made out at any time within the period of these accounts. The green wax is made up once a year to Midsummer, so that the accounts are not rendered up to the date of the receiver-general's account; I give these as instances to show that the banker's pass book cannot be used as a cash account of the cash transactions of the duchy.

469. You referred to certain payments made by the clerk of the duchy, who acted as deputy to the receiver-general when he went into the country to receive rents; will you explain by what authority he made those payments?—He issued, and in some cases, as he informed me in September 1854, he took with him such warrants as that which I now hold in my hand; having procured the signature to them as receipts for the amounts, he took credit for the amount of them in the sums he had to pay into the Bank. The warrant, therefore, with the addition of the signature of a party said to have "received the contents," became the voucher for the payment.

470. Have those warrants any evidence on the face of them of their having been issued by or with the cognisance of any other official in the duchy?—The one that I have exhibited is the one that was transmitted to me by the clerk of the council on the 29th of September 1855, for salary to the 11th of August 1855, and bears his initials as having been examined by him; but the similar documents which were transmitted to me in May 1854, as vouchers for payments by the deputy of the receiver-general, out of the sums to be accounted for to the 29th of September 1853, had, when I saw them, no such counter-check; and it was after I had adverted to the nature of such warrants, in the remarks which accompanied my letter to Earl Granville on the 2d of February 1855, that such counter-signature of the clerk of the council was added.

471. The warrants of which you have shown a specimen are presumed to be issued by the Queen, and the name "Danvers" is printed at the foot of them?—Yes; and the form of these warrants is a command to the receiver-general to pay the amount therein stated, and to take credit for the sum when paid.

472. What

472. What does the name "Danvers" to those warrants imply?—It implies that he is the keeper of the seals of the duchy, and that the seal has been attached by him or by his knowledge and under proper authority.

473. Is the seal attached to that document; either of the seals which Mr. Danvers kept in his possession?—No; this is a small seal attached, in quite a different manner to that of the large seals of the duchy, which are kept in Mr. Danvers's possession. This seal was kept in the possession of Mr. Gooch, a clerk in the office, who acted as deputy to General Fox, the receiver-general.

474. Who actually sealed these warrants with that seal?—In reply to such a question put by me to Mr. Gooch in September 1854, he said that he himself attached the seal to them.

475. Was any proof adduced to the auditor of the existence of the person to whom the money was payable, by a life certificate or other evidence?—No, none. The piece of parchment to which I have alluded, was both warrant, and when signed, also voucher.

476. Viscount *Goderich.*] When signed by whom?—When signed by the party purporting to be the recipient.

477. Mr. *Coningham.*] Were these kind of double documents of warrant and voucher witnessed when the payments were made in the country by the deputy of the receiver-general?—No. I wanted all receipts to be witnessed, but I was opposed in this endeavour by Earl Granville, with the assistance of Mr. Macaulay, of the Audit Office, and by the Earl of Harrowby and the council.

478. Then in fact the auditors of the duchy have had no guarantee or check that the warrants and vouchers were genuine beyond the degree of confidence they chose to place in the integrity of the party who produced them as credit to his transactions?—No, none whatever.

479. *Chairman.*] Did they not require also the signature of the party who received the money?—I have stated that they became vouchers when produced to the auditor with a signature purporting to be that of the party to whom the money had been paid in the country, not at the office.

480. Therefore the answer which you gave just now must be subject to the condition, that they also had the signature of the person who purported to be the recipient?—Yes; but, as I have before stated in the course of my evidence, receipts are not considered as evidence without witnesses.

481. Mr. *Coningham.*] And you were opposed to such a system?—Most decidedly so. It was against this system of passing accounts and statements upon the mere credit and respectability of the parties putting them forward, and without positive proof of the correctness of such accounts and statements, that I contended. I state this without impugning the characters of any officials of the duchy; but after the numerous instances within my recollection in the public service, of defalcations by persons moving in the higher walks of society, I think that no further proof is necessary as to the necessity of checks, and that those many instances are sufficient proof to convince me that an auditor should not be debarred from questioning the acts of others, however high their position.

482. Will you explain to the Committee what transpired at the time of your appointment to the auditorship of the Duchy of Lancaster, which led to your holding that appointment jointly with the one you had in the Ordnance branch of the War Department?—It is necessary that I should state, that from the year 1847 to March 1854, I had been lent by the Board of Ordnance to the Treasury, in order that I might discharge for the Lords Commissioners of the Treasury the duty of carrying into effect an Act of Parliament of 11 & 12 Vict. c. 115, which vested in the Crown large sums in the hands of the trustees of the Irish Reproductive Loan Fund to be collected in Ireland, and applied under the provisions of that Act to charitable purposes and objects of public utility. When my employment on this business, which I had up to that time very successfully conducted for the public service, was about to be terminated, I on the 2d of March 1854, laid before the Chancellor of the Exchequer a statement of my services, copies of the testimonials that had been given me as to the manner in which I had discharged them, and a memorandum of the various public capacities in which my forefathers and their relatives had acted in the service of the State. In the first of those documents, I expressed a hope at the conclusion of it that the difficult duties which I had discharged, and the testimonials which I had obtained, would be received as an excuse for soliciting the patronage of the Chancellor of the Exchequer, and presenting myself to his notice for some appoint-

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ment for which he might consider me fit, so that I might be protected against the loss of my official income after having been then 18 years in the public service, and against being sent back to the subordinate employment of a clerk in the Ordnance Department, as I had for the last five years and a half discharged duties of a more responsible nature under the Lords of the Treasury. On the 31st of March 1854, the Hon. Mr. Lawley, then private Secretary to the Chancellor of the Exchequer, sent for me with reference to the memorial which I had drawn up, and which he submitted to Mr. Gladstone. He spoke a good deal in indefinite terms, but was explicit in saying that, notwithstanding the immense pressure of business on the Chancellor of the Exchequer, he had had my case before him; that there was no avoiding my return to the Ordnance Office; that some arrangement was in contemplation which he hoped would not be wholly unsatisfactory to me; but that the opportunities to satisfy the claims of public servants were rare, and that there was no immediate prospect of doing anything for me; that some record would be made of my services, which would warrant my renewing my claim either to the present or a future Government. Having asked him if the arrangement in contemplation would remove me from the Ordnance, he replied, "No; but it will not prevent your applying for any other employment more congenial to your feelings when an opportunity occurs;" and that what would be offered to me would be a recommendation to me. That arrangement I understood was to protect me against the loss of income by the cessation of my duties in the Treasury. On the 12th of April 1854, in a letter to Mr. Stephenson, the principal assistant clerk to the Treasury, who had been in frequent attendance on Mr. Gladstone, the Chancellor of the Exchequer, I alluded to his (Mr. Stephenson's) having told me that Mr. Gladstone had something in contemplation for me. Having, on the 23d of April 1854, called on Mr. Stephenson at the Treasury on business, he asked me if I had then heard nothing from Mr. Gladstone; and on my saying that I had received no communication from him, he told me that he was much astonished. He then told me that what had been in contemplation for me was the auditorship of the Duchy of Lancaster; that Sir Edward Strutt, as he then called him, who was the Chancellor of the Duchy, had been to the Treasury, and that the whole matter had been talked over; and that he (Mr. Stephenson) had thought that it was quite decided that the appointment was to be offered to me; that in consequence of my having some days ago told him that I had not heard from Mr. Gladstone in reply to my memorial, he had called Mr. Gladstone's attention to the matter, and that his reply was that he had ceased to think of the matter, as he conceived the matter was settled. It was not until this day, and by this conversation, that I was made acquainted with what was in contemplation for me, and that I was to have the auditorship of the Duchy of Lancaster, which was the subject which had been referred to by Mr. Gladstone's secretary on the occasion of his sending for me to communicate Mr. Gladstone's decision. On the 27th April, having called at the Treasury, Mr. Stephenson gave me a letter he had written to me, enclosing one from Mr. Strutt to Sir Charles Trevelyan, which was in reply to a letter from Sir Charles Trevelyan to him, in which Mr. Strutt said he had postponed communicating on the subject of the auditorship of the Duchy of Lancaster, as he wished to communicate with His Royal Highness Prince Albert, who took an interest in the matter; and that as soon as the Court had come to town he hoped to be able to do so in a day or two, when he would communicate further with Sir Charles Trevelyan on the matter, and he hoped favourably. The next communication was by a letter on the 1st of May, from Mr. Stephenson: "Dear Bertolacci, I inclose you Mr. Strutt's note, which settles the business. Yours truly, *W. H. Stephenson*." The inclosure to that was as follows: "42, South-street, Park-lane, May 1st, 1854. Dear Trevelyan, I am now prepared to see Mr. Bertolacci, and I should be glad if he would come to me at my office, Lancaster Place, Waterloo Bridge, at half-past 2 to-day, or if that time should not suit him, perhaps he will call upon me here at 11 o'clock to-morrow morning."

483. *Chairman.*] Now will you come to the main point, which is your interview with Lord Belper?—On the 8th May Mr. Danvers, the clerk of the council, wrote to me asking me what my second christian name was, in order that I might be properly designated in my appointment as auditor of the duchy. On the 10th of May I wrote to Mr. Lawley, the private secretary to the Chancellor of the Exchequer, in which I said: "At an interview I had with Mr. Strutt, the Chancellor of the duchy on Friday last, he informed me of his having given me the

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the appointment of auditor of the duchy, at a salary of 200 *l.* per annum, which, by what he communicated to me on the previous day, I learned he had decided to do at the instance of the Chancellor of the Exchequer, and therefore conclude it is the subject to which you alluded when I was last with you. I hope you will therefore oblige me by representing to Mr. Gladstone how sensible I am of his kindness in favourably considering my services, and that you will accept my sincere thanks for all the trouble you have devoted to me. I have the honour to be, &c., *Francis R. Bertolacci.*" I have stated this correspondence because it will be found in the course of this examination that it has been stated by a noble Lord that this appointment was not given to me as a reward for past services, and to protect me against that loss of income, which, upon the cessation of the more important duties which I was discharging for the Treasury, I should have suffered under. It is very essential therefore that I should show that this appointment was the result, not of accident, nor of patronage, but purely and solely upon public grounds, without any effort, or knowing anything of the parties by whom the appointment was procured, or even given to me.

484. What is the inference which you think the Committee ought to draw from the correspondence which you have just put in?—I have put that correspondence forward to convince the Committee that what I have stated in my petition, as to the appointment having been given to me as a reward for public services, was a fact, which is proved by my having submitted a statement of my services to Mr. Gladstone, when Chancellor of the Exchequer, with whom I was not privately acquainted, nor with any of his private secretaries; that, in consideration of those services the Chancellor of the Exchequer applied to or communicated with the Chancellor of the duchy to appoint me as a fit person to the office of auditor of the duchy; that for some time after it was decided that I should hold that appointment, I was not actually made acquainted with it; that my first intimation on the subject was at the Treasury, and by those under whom I had discharged the public duties which I adverted to in the papers which I laid before the Chancellor of the Exchequer.

485. Did not Mr. Strutt, at your first interview with him after you were appointed, or when you were about to be appointed auditor, tell you that this office was conferred upon you in consideration of your public services?—That was the purport of his communication, and he stated that it had been upon the recommendation of Mr. Gladstone, the Chancellor of the Exchequer.

486. Mr. *Coningham.*] Did you know the Hon. Mr. Lawley privately, or had you had many interviews with him on the business on which you were engaged at the Treasury, before you represented your case to Mr. Gladstone, the Chancellor of the Exchequer?—I had no private acquaintance at all with the Hon. Mr. Lawley; I had only had one interview with him some months before, and that was when Sir Charles Trevelyan specially desired that I should take some papers to him for the information of the Chancellor of the Exchequer respecting some grants of money for flax in Ireland, and Sir Charles Trevelyan said he wished me to accompany those papers with some personal explanations on the subject.

487. It appears then that that office was given to you to be held jointly with your appointment in the Ordnance branch of the War Department?—Yes, and that was so stated by Lord Belper when he sat in the House of Commons, as Mr. Strutt, on the 15th of December 1854.

488. At the interview which you had with Mr. Strutt, I believe on the 8th of May 1854, when he communicated the intention to grant you the patent office of auditor of the Duchy of Lancaster, did he allude to your holding the two appointments together?—At the first interview I had with Lord Belper, on the 1st of May 1854, who was then Mr. Strutt, I told him that there was a regulation in the Ordnance Department which forbade the clerks in that office to accept any other employment without the special sanction of the Board. I also stated the same fact to Mr. Stephenson, and represented to him that, as the appointment was given to me on public grounds, and by the Chancellor of the Exchequer, as a reward for public services, I thought that the matter should be arranged between the Treasury and the Board of Ordnance. To this Mr. Stephenson's answer was, "You are quite right; I will speak to Sir Charles Trevelyan on the subject." On the 8th of May, Lord Belper told me that he had had an interview with Mr. Monsell, the head of the Ordnance, who said that although he could not allow the gentlemen in the Ordnance to absent themselves when they liked, yet that on his applying for me to be absent from the Ordnance, he would occasionally grant

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me leave for the purpose of auditing the accounts of the duchy, and he mentioned some circumstances which corroborated that fact.

489. Did you accept the appointment of auditor to the duchy, on the understanding that the Treasury would settle the question with the Board of Ordnance, respecting your holding the two appointments?—Yes, on the 15th of May 1854, I was sworn in as auditor, but after this I had an interview with Sir Charles Trevelyan and Mr. Stephenson; Sir Charles Trevelyan then said that he had seen Mr. Monsell, and arranged with him; that instead of the Treasury making an application to the Board of Ordnance, I was to write a letter to him, Mr. Monsell asking for leave to accept the appointment. I had, in point of fact, then accepted the appointment, and was sworn in. At this interview, Sir Charles Trevelyan congratulated me at having obtained the appointment; and he said, in complimentary terms, "It is a great thing; it will bring you into contact with such people." He then added, "It is 200 *l.* a year for life." To this Mr. Stephenson said, as an interrogatory, "For life?" Sir Charles replied, "Yes, for life." The next day, the 16th of May 1854, I received from Mr. Stephenson the draft of a letter to be written by me to Mr. Monsell, which was as follows: "I beg leave to state to you that the Chancellor of the Exchequer having, in consideration of the services performed by me, under the directions of the Treasury, recommended me for the situation of Auditor of the Duchy of Lancaster, Mr. Strutt, the Chancellor of the Duchy has done me the honour to offer me that appointment. I request, therefore, that you will be good enough to submit my humble application to the Master General and the Board of Ordnance, to be allowed to accept the appointment, upon the understanding that its duties shall not be allowed in any manner to interfere with the regular official duties of this office." The same day I called upon Mr. Stephenson at the Treasury, and, after some conversation with him upon the subject, he amended the draft, and then it read thus: "The Chancellor of the Exchequer, in recognition of the services performed by me, under the directions of the Treasury, has recommended me to the situation of Auditor of the Duchy of Lancaster; and Mr. Strutt, the Chancellor of the Duchy, has done me the honour to offer me that appointment, which I have accepted, subject to the approval of the Board. I venture, therefore, to solicit your good offices in obtaining for me this sanction. I beg leave to add that, in accepting the appointment, I should do so with the full understanding that it will not interfere with the performance of my duties in this office." As I have before stated, this letter was written after the whole transaction had been settled, and I had been sworn in as auditor of the duchy. I wish also to read the exact copy of the one, which differed a little, which I wrote to Mr. Monsell: "Ordnance Office, 16th May 1854. Sir, The Chancellor of the Exchequer having, in recognition of the services performed by me, under the direction of the Lords of the Treasury, recommended me for the situation of auditor of the Duchy of Lancaster, Mr. Strutt, the Chancellor of the duchy, has done me the honour to offer me that appointment, which I have accepted, subject to the approval of your Honourable Board. I venture, therefore, to solicit your good offices in obtaining for me this sanction. I beg leave to add, that my holding the appointment in the Duchy of Lancaster shall not diminish my zeal and attention to the performance of my duties in the Ordnance Department." This letter, Mr. Henry Smith, Mr. Monsell's chief clerk, returned to me, stating that the pencil addenda at the end had been made by Mr. Monsell: viz., "From which I promise not to withdraw myself during the official hours, and which shall occupy my exclusive attention in the office." And he stated that he required me to write another letter, with that addition to it. On this occasion, I stated to Mr. Henry Smith, that if I adopted the words which Mr. Monsell had dictated, I should preclude myself from making an application through the Chancellor of the Duchy for the leave which Mr. Monsell had promised should be granted to me, on such an application being made to him. Mr. Henry Smith's reply was, "Oh yes, Mr. Monsell said so." I therefore substituted, instead of what Mr. Monsell had dictated to him, the following words: "To which my attention shall be exclusively devoted during official hours, nor will I absent myself from the office without leave."

490. *Chairman.*] Had you previously obtained from Mr. Monsell the promise of such leave of absence from the Office of Ordnance as would enable you to discharge your new duties?—The leave to which I allude was the communication which Mr. Strutt made to me on the 8th of May, when he said that he had had

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some conversation with Mr. Monsell, and that Mr. Monsell had stated that if I was required to be absent from the Ordnance Office to discharge the duties of the duchy, upon his (the Chancellor's) applying for it he would grant that leave.

491. Mr. *Coningham.*] When did you next hear from Mr. Monsell or Mr. Henry Smith, his chief clerk, on the subject of that letter?—On the afternoon of the 21st of June 1854, when I was leaving the Office of Ordnance in Pall-mall, at a few minutes after four o'clock, I went into the room of Mr. Henry Smith, the chief clerk of the cash account branch, to ask him if Mr. Monsell, the Clerk of the Ordnance, had come to any decision on the subject of my letter to him, requesting the concurrence of the Board of Ordnance to my appointment as auditor of the Duchy of Lancaster. On my entering the room before I spoke, Mr. Smith took from his right hand drawer my letter, and said, "Mr. Monsell only gave me this back the day before yesterday; take it and read it. He has had so many things to attend to, that it was only in turning over his drawer that he remembered it." And on reading the minute which Mr. Monsell had written at the foot of my letter, I found that it was to the effect that under no circumstances whatever was I to absent myself from the office during official hours, or such extra hours as might be required from me; and the wording of the phrase was so stringent, that I saw it did not, under any circumstances, admit of my being absent, or of my applying for leave to be so. As this was quite at variance with Mr. Monsell's communication to Mr. Strutt, the Chancellor of the Duchy of Lancaster, namely, that if I was wanted at the Duchy Office a short time, he would give me leave on Mr. Strutt's applying to him; and that if my absence was required a longer time, Mr. Monsell would sanction my employing a substitute at the Ordnance (and Mr. Monsell himself suggested that, as my brother was not employed, I might let him act as my substitute in the Ordnance), I asked Mr. Smith to let me take my letter, with Mr. Monsell's minute on it, to show it at the Treasury. To this Mr. Henry Smith said, "I do not know whether Mr. Monsell would like it to go to the Treasury, and I must therefore ask him first." In saying this he took the letter back. Mr. Smith added, that Sir Charles Trevelyan had only a few days ago said to him that he hoped he did not allow the gentlemen in the department to engage in private business, and that he (Mr. Smith) had answered him by saying that they did not undertake private business, but that where gentlemen were engaged in other public duties, he thought the case different. As this appeared to me to be said with a view to place upon Sir Charles Trevelyan the onus of the impediment which Mr. Monsell, in his official capacity as head of the department, was throwing in the way of my appointment to the duchy, I told him (Mr. Smith) that at the time the appointment was offered to me, I had seen Sir Charles Trevelyan, and had said to him that as it was given to me by the Chancellor of the Exchequer for services performed for the Treasury, I did not wish to take it under a cloud, but I wished it to be done openly with the concurrence of the Board of Ordnance, as it was given to me to be held with my Ordnance appointment.

492. Viscount *Goderich.*] You alluded to some further statements made by Mr. Monsell; among others, with reference to your employing your brother as your substitute; were those further statements also mentioned to you by Mr. Strutt at your interview with him?—Yes; on the 8th of May. I knew nothing at all of what had passed between them until Mr. Strutt told me that Mr. Monsell had stated that. I was not even aware that my brother's name had in any way been brought into the question. It was a kind of spontaneous statement by Mr. Monsell that such could be done.

493. And it was stated to you by Mr. Strutt on the 8th of May?—Yes; I merely mention this to corroborate the fact that it took place at this time.

494. *Chairman.*] The purport of the communication about your brother being that he could discharge a part of your duty either at the Ordnance or at the Duchy of Lancaster?—No; only at the Ordnance, and that was in case of my services being required for a long time; but Mr. Monsell himself had stated that upon the Chancellor's application for leave of absence for a short time, he would grant me that occasionally.

495. Viscount *Goderich.*] You state in paragraph 73 of your petition that Mr. Henry Smith admitted that he was cognisant of what had passed between Mr. Monsell and Mr. Strutt?—Yes.

496. Have you anything to say in confirmation of that statement?—I had a communication with Mr. Henry Smith upon that subject.

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497. On the 21st of June?—Yes, it was; and I recollect perfectly well that when I mentioned the fact of what had passed between Lord Belper and Mr. Monsell, he said, "Oh yes;" he assented to the thing being known; he knew it. That I state upon my own clear recollection of what took place at the time.

498. You understood him to be aware of what had passed between Mr. Monsell and Lord Belper?—There was no doubt he was aware by what he said to me.

499. *Chairman.*] What was the final state of things in the month of August; and when you were appointed, what was your position with regard to leave of absence from the Ordnance Office; did you get an assurance that you should have leave of absenee from your Ordnance duties, in order that you might attend to your duties at the Duchy of Lancaster?—That was the private understanding, and what was stated to me by Lord Belper; and in the course of this examination it will be shown that I appealed to Lord Granville upon these grounds, and that will be elicited.

500. Do you mean to say that your understanding of the agreement was, that you were to have leave of absence when you wanted it for the Duchy of Lancaster business, but that when you practically applied for it you could not obtain it?—Decidedly so.

501. Mr. *Coningham*]. You have said that that communication to you by Mr. Henry Smith of Mr. Monsell's minute was the 21st of June 1854; was not that the same day upon which there was a change in the Chancellors of the duchy?—Yes.

502. *Chairman.*] Do you think that the fact of the change of the Chancellors on the 21st of June had any bearing whatever upon the matter of which you are now giving the Committee an account?—I feel under some difficulty in answering that question, and I would much sooner that the inferences which may hereafter be drawn from that fact should rest upon what has transpired. I place no inference myself upon it, because I may be right and I may be wrong; but all I can say is, that it is a very significant fact that Mr. Monsell should, upon the very day upon which there was a change of Chancellors, make that decision.

503. By "a significant fact," do you mean that the Committee are to infer that the one bears upon the other?—I think that the whole course of this examination with regard to the obstructions which were placed in my way should be taken collectively and not distinctly, and I hope therefore the Committee will be kind enough to postpone any inference upon the subject till they have heard the whole of the examination.

Jovis, 2° die Julii, 1857.

MEMBERS PRESENT.

Mr. Bramston.	Viscount Goderich.
Mr. Coningham.	Mr. J. Hans Hamilton.
Mr. Sotheron Estcourt.	Lord Harry Vane.

T. H. S. SOTHERON ESTCOURT, Esq., IN THE CHAIR.

Francis Robert Bertolacci, Esq., called in; and further Examined.

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504. Mr. *Coningham.*] ON what day did Mr. Monsell give you a definite answer to the letter which you had, by the arrangement between himself and Sir Charles Trevelyan, been made to write to him on the 16th of May 1854?—Upon the 1st of July 1854, Mr. Henry Smith wrote to me the following letter, by the direction of Mr. Monsell: "In reply to your letter to Mr. Monsell of the 16th of May last, requesting permission to hold the situation of auditor of the Duchy of Lancaster, and pledging that such appointment shall not diminish your zeal and attention in the performance of your duties in this office during official hours, and that you will not absent yourself from the office without leave,

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leave, I beg to transmit a copy of Mr. Monsell's minute of 22d May, upon your letter: 'I have no objection to Mr. Bertolacci accepting the appointment offered to him on the terms his letter contains; he must in no case be absent during office hours, or during those extra hours in which the services of the clerks in the office are required in times of pressure, without my written leave. (signed) *W. M.*'"

505. Who was the Chancellor of the Duchy then?—Earl Granville.

506. Have you any evidence to show that after Earl Granville returned to town, you applied to him to obtain from Mr. Monsell the leave from the Ordnance, which at the date of your accepting the auditorship of the duchy it had been promised you should have upon application being made for it, by the Chancellor of the Duchy?—Yes, on the 17th of October 1854, I wrote to Mr. Danvers as follows: "As I have for some time been suffering from the effects of a cold, I do not wish to be out later than I can help after the office hours; instead, therefore, of calling at the duchy office, I write to ask you to oblige me with a line to inform me, whether Lord Granville has returned, and attends in Lancaster-place yet, and if so, when his Lordship will be there." Mr. Danvers replied on the 18th of October, "I beg to acquaint you that Lord Granville is in town, and attends at the office; but as his Lordship's times of attendance vary, I will, if you please, ask him when he can see you." After that, his Lordship made an appointment to meet me on the Monday following, the 30th of October 1854. Having met Earl Granville at the duchy office on the 30th of October, I explained to his Lordship the necessity of making application to Mr. Monsell to fulfil his promise of granting me leave of absence from the Ordnance Office, and the following correspondence will explain the result, as it shows that the Treasury and Mr. Monsell and Earl Granville had full intimation of the necessity of time being allowed to me, and of the nature of the examination which I was required to give to the accounts, which would occupy more time and attention than could be afforded to it, without special time being allowed me during the office hours at the duchy.

507. Lord *Harry Vane.*] Will you state the substance of what passed at the interview between you and Lord Granville?—At the interview which I had previously had with Earl Granville, and which was alluded to in my letters to Mr. Stephenson and Sir Charles Trevelyan at the Treasury, I entered at great length into the origin of my appointment to the duchy, and the necessity there was to examine the accounts in a very careful manner; and I pointed out that, without time being allowed, such an examination could not be given.

508. *Chairman.*] What took place after that interview with Lord Granville?—At that interview Earl Granville informed me that he would see Sir Charles Trevelyan upon the subject, and I believe also Mr. Monsell. I then, as I have already stated, wrote to Sir Charles Trevelyan to inform him of what had taken place, that he might be prepared to converse upon the subject with Lord Granville; and after that, I received a communication from Earl Granville to say that he had seen Sir Charles Trevelyan, and that the application would not be made to the Board of Ordnance for the time that I required to examine the accounts. I allude to the application which I have already referred to for time to be granted, under the arrangements that were made between Mr. Strutt and Mr. Monsell.

509. That application was to have been made by the Chancellor?—Yes.

510. And the Chancellor informed you that such application would not be made?—He did.

511. Did anything further take place after such refusal by Lord Granville to apply for the leave of absence which you desired?—He stated that he had seen Sir Charles Trevelyan, and that Sir Charles Trevelyan had stated to him that he was sure that with my powers of application I could get through the work concurrently with the Ordnance duties, at the same time withholding from me the opportunity of attending at the duchy office during the office hours.

512. Did you, in consequence of that, write a letter to Lord Granville disclaiming the responsibility of the consequences?—Yes.

513. Mr. *Coningham.*] Will you read the letters that passed between yourself and Lord Granville?—On the 4th of November 1854 I wrote to Mr. Stephenson at the Treasury in the following words: "The enclosed is the copy of a letter I had written to send to Sir Charles Trevelyan, but before forwarding it I thought it right to communicate with Earl Granville on matters relating to the business of

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the duchy, and as his Lordship then said he would speak to him on those points which had reference to the double calls on my time, I felt it would be indecorous in me to put myself forward in the matter. My reason for making this communication is to leave no means dormant which should be exerted on my part in removing the obstacles which exist to a complete and efficient discharge of the office of auditor to the Duchy of Lancaster, and I think that the best mode of securing this object is to afford the fullest information I can to those who had a voice in the proceedings connected with my appointment, and who have the power of placing matters on such a footing as may establish a sound system of check; I therefore send you the enclosed papers for your own information, and that you may show them privately to Sir Charles Trevelyan, in order that he may feel conversant with the subject when Lord Granville calls on him to discuss it, which, from what his Lordship said, I should think would be some day next week. I purposely refrain from making any suggestions, for fear that the attention which the matter requires for the interest of the duchy should be prejudiced by any erroneous apprehension on the part of yourself or Sir Charles Trevelyan that I am actuated by interested motives. (signed) *Francis Robert Bertolacci.*" The enclosure is as follows: "It is with reluctance that I trouble you, but I feel it an imperative duty to address you in reference to the discharge of my duties as auditor of the Duchy of Lancaster, and I venture to hope you will not think me intrusive in doing so. When the appointment was offered to me, in consequence of the Chancellor of the Exchequer recommending me as a fit person to fill it, I intimated to you through Mr. Stephenson that there was an Ordnance Regulation against the gentlemen in that department accepting of any other situation at the same time without the sanction of the Board, and that as Mr. Gladstone had procured this additional appointment for me in recognition of my services to the Treasury, I thought it should be clearly understood that I had the sanction of the Board of Ordnance to my holding the two situations. In this view of the matter, Mr. Stephenson informed me that both yourself and he concurred, and that you had told him you would speak to Mr. Monsell. I therefore accepted the appointment. Subsequently, when you were so kind as to congratulate me on the subject, you informed me of your having had a conversation with Mr. Monsell, and of its having been settled between yourself and him, that the Treasury would not make the application to the Board of Ordnance, but that I was to write a letter to him to the effect of what is stated in the enclosed copy, and that the leave would accordingly be granted to me. It was on this occasion that you said the appointment was equal to an annuity of 200 *l.* for life, and that the duties were such as I could perform at home, after the office hours at the Ordnance. On the 1st July 1854, Mr. Monsell's chief clerk wrote me the letter of which I send you a copy, and then informed me, that he declined submitting my letter to the Board and getting a formal minute on the subject, in lieu of which he had affixed his own memorandum at foot of my application. This, so far from affording me any facility in the discharge of my duty to Her Majesty in regard to her Duchy of Lancaster, has placed me under the most unequivocal restriction. Under these circumstances, I think you will admit, that I ought to make you acquainted with the fact, that the auditor is the only check on the extensive property and different sources of income of the Duchy of Lancaster; that the duties which appertain to this ancient office are not only to require the production of warrants and vouchers for sums disbursed, but to give a constant and vigilant attention so as to see that the property is neither misapplied or wasted. The performance of these duties involves the perusal of lengthy legal instruments and titles to property, and multifarious reference to various minutes and enrolled deeds which cannot be taken from the office, and can only be obtained by me with the assistance of a clerk of the duchy. All bills to be submitted for the Queen's signature to dispose of the duchy property (whether by sale or lease) have to be first examined and signed by the auditor, whose duty it is to check the correct valuation of the property. Out of the one month's leave granted annually to the gentlemen of the Ordnance Department for relaxation from business, I devoted a fortnight to the auditing of the duchy accounts; but so numerous were the subjects and details into which I found myself compelled to enter, in order to satisfy myself of the correctness of the accounts and peculiar proceedings connected with them, that I was able to accomplish but a very small portion of the business in that time. It is right for me to add that from all

all information I have received I am satisfied that the auditing of the duchy accounts requires much more than nominal attention, and that a careful discharge of those duties would probably absorb the whole of my time." I may state that that was for a certain period, not ultimately. "When you entrusted to me the carrying into effect the Act which vested the Irish Reproductive Loan Fund in Her Majesty, you applied to the Board of Ordnance for my services, on the ground that a man could not serve two masters. I hope, therefore, that you will give me credit for being actuated by no other desire than to discharge my duties efficiently for the duchy, and creditably to myself, when I call your attention to the impossibility of proceeding one-and-a-half miles further from home, at four o'clock, and commencing a fresh day's work at another office, after six hours' close application to accounts." I would merely wish to add that had I had time at that period thoroughly to investigate the accounts, I anticipated putting them upon such a footing as would have considerably diminished the work that was at that time necessary.

514. *Chairman.*] Did you, upon entering upon the office of auditor of the duchy, find the accounts in such a state that you thought it would be in your power to put them upon a much better footing?—I can hardly call it a system of accounts such as I found it to be in the duchy; it was merely a compilation of facts rendered once a year to the auditor, and my object was to put the thing upon such a system that by remodelling the whole system of the accounts of the duchy, the duties of the auditor would be facilitated and made practicable within a short time of the year.

515. Until you had so remodelled the accounts, did you not find that the work was much greater than you hoped it would be, after you had done so?—Yes; and I saw that by the system which I hoped to introduce, there would have been that classification of the work and the business which would have enabled me to get through it in a comparatively short time. On the 1st of December 1854, I wrote to Earl Granville as follows:—"When I took the liberty to explain to your Lordship, on the 30th of October, the impediments which I found existed to the discharge of the duties of auditor of the Duchy of Lancaster from the restrictions under which I was placed by the arrangements made between Sir Charles Trevelyan, Mr. Strutt, and Mr. Monsell, your Lordship was pleased to express a wish to communicate with the two former gentlemen, and an intention to do so within ten days, and then see me again on the subject. I am most reluctant to appear to press your Lordship for a decision as to the course I am to pursue; but I hope you will pardon me if I mention that there are two years' accounts of the duchy to be audited, namely, one account to the 29th September 1853, which should have been investigated by my predecessor; the other up to 29th September 1854, which should be presented to Parliament at the opening of the next session. The first of these accounts was presented to Parliament before my appointment; but by the very partial inquiry I have had time to make into it, I have ascertained that it is not without error. I feel that I might be remiss if, in conjunction with the subject of this letter, I were to omit to bring before your Lordship's attention the fact that although the receiver-general is nominally the accountant, and is responsible to the Queen for any neglect or deficiency which may occur on the part of his deputies, yet that the examination by the auditor is the check over the proceedings connected with the property and the accounts of the duchy generally as managed by the clerk of the council and clerks acting under him. The Chancellors of the duchy having been changed with each successive administration, the auditor (who, except in my case by virtue of the office, has always been admitted to the council) is the only permanent officer of the duchy whose duty it is to see that the property of the duchy has been neither wasted nor misapplied. Considering the responsibility of the charge, and the communications made to me respecting the very partial check exercised by my predecessors in office, I must confess to your Lordship that it would be very satisfactory to me to have time to ascertain the correctness of the past accounts, which I am to take as a basis on which to establish the future balances and statements which will be submitted to the Queen and to Parliament. I have the honour to be, &c." Then on the 4th of December 1854, Earl Granville replied to me as follows: "After the communication which I received from you on the subject of the discharge of your duties as auditor of the duchy, I saw both Sir Charles Trevelyan and Mr. Strutt. The former told me that the Ordnance

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had consented very reluctantly to the arrangement made on the occasion of your appointment; that it was quite useless for my applying for a longer leave of absence from the Ordnance, and that in his opinion, with your powers of application, it was quite possible to get through the duchy work concurrently with your Ordnance duties." Note—The leave of absence referred to by Lord Granville is the period I was at the Treasury, discharging the duties confided to me by that department, from 1847 to 1854. This letter, in conjunction with the facts recorded in my communication to Sir Charles Trevelyan, which I enclosed to Mr. Stephenson on the 4th of November 1854, will give an explanation of the matter. On the 15th of December 1854, the clerk of the council wrote to me to say, that Lord Granville would see me in Bruton-street on the morrow, on the 16th of December 1854. I had an interview with Earl Granville, at his Lordship's house, when his Lordship said, that not being quite satisfied with the reply of Sir Charles Trevelyan, he had seen Mr. Monsell, who had consulted Mr. Henry Smith, the chief clerk of his office, who said that it was not possible to spare me, and that therefore Mr. Monsell had refused to allow me any time to audit the accounts of the duchy; his Lordship then added, that he had consulted with the council of the duchy, and that they were of opinion that the duties of the auditor did not require his exclusive time and attention, and that he had more than the fullest confidence in me, and he was sure whatever I undertook I would efficiently perform; that there was a part of my letter to him which placed him in a very awkward position, and one of responsibility. His Lordship said, "I allude to that part of your letter where you said you cannot be responsible for the examination of the accounts, for if anything should occur six months hence, you would say, 'I had warned Lord Granville of the matter.'" He continued, "I must therefore ask you to reconsider your letter, and let me know whether you cannot conscientiously undertake the responsibility, for I am sure you will not undertake the duties if you cannot discharge them, and in that case I must make some other arrangements." Those words were said in a manner to convey to me that if I did not take the responsibility upon myself of passing the accounts of the duchy, his Lordship would make some other appointment as auditor. I replied, that I wished first to explain to his Lordship the circumstances under which I was recommended by Mr. Gladstone to the appointment of auditor of the duchy, and I explained very fully to him those circumstances, which I have already alluded to in this Committee. I then told his Lordship that, without going into the details of the work which I was sure the council had not time to do, it was not possible to form a correct estimate of the work to be done; that the duties of the auditor were not those of the ordinary auditing of accounts of the public departments, where every sum which was brought into the account, either to the charge or discharge side of it, had come under the cognisance of the controlling Board, and had gone through the department of check; for that in the Duchy of Lancaster the charge side of the account had to be ascertained by the auditor from the perusal of long lengthy documents, containing sums which had not been decided by the council, arising from fees and other sources of income; that the enfranchisement of property had been effected, for which no minute of the Chancellor and council could be produced to me; and that on my inquiring how this transaction had taken place, I found it had been done in the name of the Queen, with the alleged advice of the Chancellor and council; and that sums had been received for such enfranchisements which had not been previously accepted by the Chancellor and council; and that, moreover, although the matters professed to have had the authority of the Queen and council, the seal which had been attached to the deeds, I was informed by the clerk, Mr. Gooch, was a small seal of the duchy, which he kept in his possession. I also told his Lordship that my eye alighted on a part in the previous year's accounts, in the course of perusing the legal documents of the duchy, which required investigation as affecting the accounts, namely, that income was yearly charged with sums to replace capital arising out of the sale of property; and that, although I did not bring any charges of defalcation against any one, the matter was not intelligible, but that I had not time, with the restrictions placed upon me, to investigate the matter. Earl Granville said he thought, perhaps, I gave myself unnecessary trouble by going into details.

516. Mr. *Coningham.*] In the letter from Lord Granville to yourself, of the 4th

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4th of December 1854, his Lordship stated that Sir Charles Trevelyan had told him that the Ordnance had consented very reluctantly to the arrangement made on the occasion of your appointment to the auditorship of the duchy, and that it was quite useless his applying for any longer leave of absence from the Ordnance for you; and that in his, Sir Charles Trevelyan's opinion, with your powers of application, it was quite possible for you to get through the duchy work concurrently with your Ordnance duties. What means had Sir Charles Trevelyan of ascertaining the nature of the duties of the auditor of the Duchy of Lancaster, as, by your letter of the 4th of November 1854, you stated to him that, according to the system on which the business of the duchy was then managed, a great portion of the auditor's time should be devoted to it?—I am not at all aware that Sir Charles Trevelyan ever had any opportunity of acquiring any information or insight into the business of the Duchy of Lancaster, and therefore I know of no source from which he could have obtained the information except from those over whom I was a check.

517. *Chairman.*] Do you suppose that Sir Charles Trevelyan pretended to have any cognisance of the business of the Duchy of Lancaster; do you not rather suppose he meant to say that, knowing you to be a man conversant with the audit of accounts, and fully competent for such work, he supposed that, whatever might be the amount of the business, you would be able to get through it?—I have neither said, nor do I suppose that Sir Charles Trevelyan had any knowledge of it; and I do not think he made any pretensions of having any knowledge of the business of the duchy. I think he spoke under some advice or other, but what his grounds were for saying that, I cannot at all imagine. I think very likely his expression was complimentary to me, but by no means facilitating the duties I had to discharge; in fact, I think he spoke at random.

518. Do you not, in fact, suppose that he spoke at random, when he talked of the amount of business that belonged to the auditor of the accounts of the Duchy of Lancaster?—Yes, I think that was very much the nature of his communication.

519. Mr. *Coningham.*] What was the leave of absence to which Sir Charles Trevelyan alluded in his communication to Earl Granville as having been granted to you by the Board of Ordnance?—His expression of "leave of absence" is purely a mistatement of the facts, because it is couched in words which lead to a direct inference that I had been absent from my public duties, and, therefore, that I had exhausted any claim to further indulgence, and that what I then applied for was not to be devoted to a duty for Her Majesty. Now, the absence alluded to was no such thing. It was my absence from the Ordnance Office during the several years I was working both in Ireland and at the Treasury in managing and recovering the Irish Reproductive Loan Fund for the Treasury. It was also in that period that I was sent to Ireland by the Government on three different missions, to travel in the most remote and poorest parts of the west of that country, in the midst of all kinds of filth and danger, generated by the famine which was then raging, with dysentery and typhus fever, to the effects of which I nearly fell a victim; and without receiving any extra pay beyond what I should have had if I had remained in London. I will give the Committee a specimen of the "leave of absence:" On the 18th of March 1847, the Secretary to the Board of Ordnance, in which department I was, wrote to me as follows:—"Sir, The Lords Commissioners of Her Majesty's Treasury having stated that your services are urgently required for a few weeks in Ireland for a particular duty in connexion with the relief operations in progress in that country, I am directed by the Master-general and the Board to apprise you of the same, and to desire that you will accordingly place yourself under the directions of the Lords of the Treasury for the purpose mentioned." Again, in November 1847, I received a similar command. When the Irish Reproductive Loan Fund was vested in Her Majesty, the Lords of the Treasury made a minute on the 3d of October 1848, by which my services were required to be transferred from the Board of Ordnance to the Treasury, and this was another portion of the "leave" alluded to. For the subsequent years, while I was employed at the Treasury, the form was gone through of the Treasury writing to the Ordnance at the expiration of every six months, for a renewal of what has been termed "leave of absence," in order that I might go on working for their Lordships, but yet that I might retain the permanent appointment at the Ordnance,

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nance, as my appointment at the Treasury was merely a commission which would terminate.

520. Lord *Harry Vane.*] Who performed at the Ordnance Office during your leave of absence the services which you would have been called upon to perform if present?—During my absence there were two substitutes to do my work; and a portion, in fact almost the whole, of the pay which I received from the Ordnance was deducted from me. The arrangement which was made by the Treasury Minute of October 1848 with me was this: that whilst I was employed under the Treasury, I was not to suffer in the Ordnance Department, and that any deductions that were made from that were to be considered a portion of the salary which I was to be paid for discharging the duties under the Treasury; consequently, those deductions which were made from my Ordnance salary to pay the substitutes during my absence were reimbursed me by the Treasury. The Board of Ordnance therefore suffered in no way whatever from my absence, inasmuch as there were two people to do the work then. As I have referred to the Treasury Minute of October 1848, and as by that minute the appointment was for three years, it is necessary that I should state that in August 1851, in consequence of certain additions to the work that I had to discharge, and opening fresh investigations into the duties allotted to me by the Treasury, a renewal of the engagement was made in order that I might carry out those extra duties. On the 1st of August 1851, preparatorily to the Treasury Minute affecting the business in which I was engaged, a memorandum was drawn up by Mr. Leake, the principal assistant to the secretaries to the Treasury. A portion of that memorandum was as follows: "As connected with the present state of the fund, I wish to say a few words with respect to Mr. Bertolacci; his engagement for this service terminates on the 30th instant. If the proceedings under the minute of the 3d of June continue, he will be required to examine an immense mass of very intricate accounts here, and afterwards to proceed to Ireland to settle the same finally on the spot, which cannot be done without very protracted and troublesome discussions with the parties concerned. He must therefore be engaged for a further period; a further leave of absence must be procured for him from the Board of Ordnance. He is the only man properly qualified, from his experience in the previous correspondence, to undertake this business; and I hope that whether his services are continued or not, the great ability, the zeal, and the correctness of principle which he has shown in the execution of this very difficult and troublesome duty may not be forgotten at the Treasury, and that if no opportunity should be offered for making his valuable qualities available in a manner more useful for the public service, he may be so recommended on his return to the Board of Ordnance that his long absence from his duties in that department may not be considered in a light detrimental to his interests. (signed) *S. M. Leake.*" To that Sir Charles Trevelyan made the following addenda: "I entirely concur in this. Mr. Bertolacci has been indefatigable in the execution of his laborious and harassing task, and he has accomplished more than could have been expected under the circumstances. (signed) *C. Trevelyan.*" A Treasury minute was made subsequently, under which I continued to work, up to the 31st of March 1854, at the Treasury, and when I returned to the Ordnance Department in May 1854, as I have before stated, the auditorship of the Duchy of Lancaster was conferred upon me as a reward for my public services; but in returning to the Ordnance, the joint salaries of the Duchy and the Ordnance were 60 *l.* less a year than I had received at the Treasury.

521. *Chairman.*] Do I rightly understand you to say that the joint salary of your clerkship in the Ordnance, together with that of auditor of the Duchy of Lancaster, produced to you 60 *l.* a year less than the sum which you had been receiving whilst you were in the employment of the Treasury, after making the deductions which you state were made in order to pay the two clerks who did your duty whilst you were absent?—Yes. On the 31st of July 1854, when I finally gave up the charge of the Irish Reproductive Loan Fund, I received the following letter: "Treasury Chambers, 1st July 1854. Sir, I am directed by the Lords Commissioners of Her Majesty's Treasury to transmit herewith for your information a copy of their Lordships' minute, dated the 14th instant, directing the payment of a special donation to you, and to Mr. Begent, as a mark of their approbation of your meritorious services in conducting the proceedings on the part of the Board, with respect to the accounts of the Irish Reproductive Loan Fund."

Fund." The minute enclosed, so far as it had reference to myself, was as follows: "The assistant-secretary calls the attention of the Board to their Minute of this date, directing the discontinuance of further proceedings on the part of this office with respect to the accounts of the Irish Reproductive Loan Fund; and especially to the statement in that minute respecting the satisfactory result of the measures taken under the provisions of the Act of the 11 & 12 Vict., c. 115, for the recovery of the moneys due to the Fund. Sir Charles Trevelyan feels it to be an act of justice to Mr. Bertolacci, the gentleman to whom the conduct of these proceedings was entrusted by their Lordships, to state that that result has been mainly owing to the unremitting energy and ability evinced by him in the fulfilment of the arduous duties assigned to him, and Sir C. Trevelyan submits that a special donation from the Irish Reproductive Loan Fund should be awarded to Mr. Bertolacci, under the 12th clause of the Act referred to, as a mark of their Lordships' approbation of his meritorious services." Under that Minute the Treasury made me a donation of 300 *l.*

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522. Mr. *Coningham.*] You have read a letter of the 11th of December 1854, to Lord Granville, did his Lordship receive that disclaimer?—No; his Lordship requested me to withdraw it, as he said it might throw responsibility upon him.

523. Will you read what afterwards passed between Lord Granville and yourself, in writing, on the subject?—On the 20th of December 1854, I wrote to his Lordship, as follows:—"I have considered what fell from your Lordship on the 16th instant, and I cannot hesitate to comply with the suggestion I understand you to have made, that I should withdraw my letter of the 11th of this month, or such parts of it as your Lordship might consider objectionable, for my object in writing was not to throw responsibility upon your Lordship, but to relieve myself from the possible charge of inattention to the duties of the responsible office which has been entrusted to me." On the 22d his Lordship replied, "I have to acknowledge the receipt of your letter of the 20th, in which you offer to withdraw your letter of the 11th. I am glad to see that you feel the difficulty in which that letter placed me."

524. Did you subsequently bring under the notice of Lord Granville that the receiver-general's account from the 30th of September 1853 to the 29th of September 1854 had not been rendered?—Yes; I wrote to Mr. Danvers upon the 21st of December 1854, alluding to the receiver-general's accounts not having been rendered; and that letter was submitted to Lord Granville.

525. How do you know that Lord Granville saw that letter to the clerk of the council?—Because in his Lordship's letter of the next day, the 22d December 1854, he says, "Mr. Danvers has read to me your letter of the 21st to him."

526. Did Lord Granville notice in that letter the fact that the receiver-general had not rendered his account to the 29th of September?—No.

527. Will you read Lord Granville's letter to you, of the 22d of December 1854?—In that letter his Lordship says: "It is desirable that you should put down on paper what you believe to be the duties of your office. If there are some which you consider useless, you will suggest their being given up; if there are some which have not hitherto been performed, you will propose them as an addition. After I have considered your scheme for the future, and revised it if necessary, I will have some draft instructions prepared, which I will have submitted to you; and you will then be able to tell me whether you see any difficulty in properly discharging your duty to the duchy, and, if such difficulty exists, whether there is any practical mode of obviating it." I consider that that letter, following as it did the refusal to obtain for me the necessary time, and that which had been promised to me when I was appointed, left it at my option, had I thought fit, to curtail my functions and obviate the pressure on me. But I did not feel that I could, to relieve myself, conscientiously throw off that which constitutionally belonged to my office of auditor.

528. What are the conclusions which you draw from that letter?—I conceived that that letter, after the refusal to grant me leave of absence, left it at my option, had I so thought fit, to have curtailed my functions. I conceived that that was a proceeding in which I was not justified; inasmuch as if I, as auditor, assented to the curtailing of the functions of any particular office of the Duchy, it would have been interfering with that constitutional trust which I conceived the Duchy was, for the Crown. It was upon those grounds that I

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resisted any proposal of the kind to alleviate my own burden at the expense of an institution of the Crown.

529. Did you assent to drawing up the draft of your own instructions?—No. On the 27th of December 1854 I wrote to Earl Granville as follows: "I have had the honour to receive your Lordship's letter of the 22d instant, and with it the messenger of the duchy brought me one from the clerk of the council, containing a statement which had been prepared by the clerk of the records, in which it is stated that 'the statute strictly prohibits all interference with the power of the Chancellor and council of the duchy, to whom alone it can appertain to limit, alter or prescribe as they may deem expedient, according to the circumstances of the case, what shall be the particular duties required of any or every officer of the duchy to discharge,' which statement, I presume, your Lordship has perused. When Mr. Strutt communicated my appointment to me, he did not define the duties which he conceived I should have to perform beyond what he has since stated in Parliament on the 15th of this month, relating to his desire that the accounts should be rendered in a more complete and intelligible form than heretofore. The words I have taken the liberty to quote above from the statement which I conceive has met your Lordship's approbation, seem so precise as to the power claimed by the Chancellor and council to define the duties of all the officers of the duchy, that I hope I may not be considered disrespectful if I abstain from stating my own views after my short acquaintance with the details of the business of the duchy; and if I confine myself to the repetition of my anxious desire to do my duty to the Sovereign faithfully and efficiently, and to carry out, to the best of my ability, the instructions I may receive from time to time from your Lordship. I have the honour to be, &c. *Francis R. Bertolacci*."

530. Had you any other reason for refusing to prescribe or circumscribe your duties as auditor?—Yes; I conceived that, as the duchy was an institution of antiquity, and one of a constitutional nature, and that the property was a trust for the Sovereign, nothing less than an Act of Parliament could interfere with its constitution; for I foresaw that, by my assenting to the exercise of the power by the auditor to change his own functions, I might unwittingly limit my power of check, and that it would compromise the question of my exclusion from the council, and thereby forfeit my claim to that real power which belonged to the auditor as a guardian of the property of the duchy.

531. Did Lord Granville subsequently transmit to you the draft of some instructions, and ask you to make your observations thereon?—Yes.

532. *Chairman.*] Are you not referring to the same draft of instructions upon which you have already given an answer at Question 281?—Yes. On the 18th of January 1855 Earl Granville wrote to me, saying, "In consequence of your letter of the 11th December, in which you intimated to me that you disclaimed all responsibility as to the consequences of an imperfect examination of the voluminous documents, &c., &c., which from time to time will be submitted to your approval, I had the pleasure of communicating personally with you on the 16th of December. I then explained to you the impossibility of my accepting such a disclaimer of responsibility from you, and finding that you had received no instructions on your entrance into the office, I requested you to draw up some draft instructions for my approval, in order that when these instructions were finally prepared, you would be able to decide whether you could comply with them, and if so, under what conditions. I repeated this request in writing on the 22d of December, and on the 27th of December you informed me of the reason for which you declined meeting my wishes. I have no wish to press upon you to do that, which although usual and often convenient, is somewhat anomalous in its character; I have therefore, with the assistance of the Audit Office, had prepared some draft instructions, which I enclose. I shall be much obliged to you for any observations which may occur to you on the enclosed draft; and I must then request you to consider whether you are able to comply with the instructions it contains, concurrently with the discharge of your duties at the Ordnance Office. The latter question becomes the more important as since the conversation (I believe I informed you) I had with Mr. Monsell, I have received a letter from that gentleman, in which he informs me, in terms complimentary to you, that in the opinion of the chief clerk of the Ordnance and of himself, it would be far better that you should belong

belong to one of the two offices to which you are now attached, giving up the other."

533. Did you not therefore find yourself placed in the dilemma either of acceding to the functions of the auditor being circumscribed by Earl Granville, or of affording a ground for it to be alleged that they were incompatible with your duties at the Ordnance?—Yes.

534. Did you return those remarks to Earl Granville with the observations you have alluded to, showing that the system of audit proposed for you to follow would be ineffective?—Yes, on 2 February 1855, and by the observations which I then made respectively on the instructions, I pointed out how inappropriate those instructions were to the particular functions of the auditor of the Duchy of Lancaster, which differed so materially from those of ordinary auditors of accounts; first, because I was by the constitution of the duchy and the palatinate a member of the governing body, and not merely instrumental of the will of others; and secondly, because the functions of check were not simply over parties under some other controlling power, but were to be exercised over the staff itself, and those who sat at the council as ministers of the property of the duchy; for instance, the receiver-general. I conceive that had I assented to be bound by those rules laid down for me in the proposed instructions, I should have assented to going through those mere mummeries of audit by which so many defalcations have from time to time been found to exist for years, and have ultimately been discovered by some trivial or incidental circumstance which has exploded the whole mine. I might state, in conjunction with this, that if the Committee desired it, I could give them a list of seven very serious defalcations in the public service within no very distant period, to say nothing of the number that have transpired lately in other public bodies; and it was for this reason that I saw that to effect an audit such as an auditor could really attach his name to, he ought to be unfettered, and not have the rules laid down for him to follow by a department that was not conversant with the peculiar functions of the auditor of the Duchy of Lancaster.

535. *Chairman.*] Will you be good enough to state those cases to which you refer?—We have in recollection the Exchequer frauds. We had also the defalcation with respect to the *Regium Donum* in Ireland, which I believe amounted to about 30,000*l.* There were also the Buckingham Palace defalcations, which amounted, I think, to about 12,000*l.* There was the case of the Treasury Intestate Estates and Escheats; I do not know the amount of that case, but that occurred very recently. There was the case of Swabey, the Admiralty Registrar, which amounted, I believe, to 60,000*l.* There was the case of Barrett Lennard of the Council Office; I do not exactly know the amount of that, but I believe it was about 3,000*l.* And I could mention various others, minor cases, which have come under my own particular knowledge. I may mention the particulars of one of very recent date, where, four years ago, a gentleman was sent down to one of the provincial towns to examine the accounts of a party who was suspected to be in arrear. That gentleman went through the usual forms of the audit, and he reported that the balance had been shown to him, but that he was satisfied that if that balance had been taken and transmitted to London, there would have been a noise that night in the town. The party had sent his accounts up quarterly; they had been examined regularly, vouchers had been produced, and everything had been passed. Four years after this report the individual dies, and parties send in claims; they are told that their claims have been met and paid; they say, "Nothing of the kind." This leads to an investigation, when it is found that for four years the whole of the system was one great fabrication, and that really the accounts, sent up and audited and passed according to the usual forms of audit, were perfectly fabulous. I merely mention these instances as showing that the auditing of accounts and the auditors of accounts should not be fettered or bound by any formal rules.

536. Mr. *Coningham.*] What reply did the clerk of the council make to your letter of the 21st of December 1854, calling for the receiver-general's account to the 29th of September 1854?—He said: "I have named the subject of the accounts to Mr. Gooch, who will proceed with the account for 1854, on your having the kindness to return the one for 1853, which is in your possession, the examination of which you have begun, but not, I believe, completed. Mr. Gooch will nevertheless proceed with the 1854 account with every dili-

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gence, on receiving back its predecessor of 1853." To which I replied, on the same day, that I saw no reason why my retaining the account for 1853 should prevent his making out the account for 1854.

537. At your last examination you explained to the Committee the difficulty of completing an audit up to any particular date of an account, for want of a cash account; and that the banker's pass-book could not be used as a cash book for the purpose, as the gross receipts and payments did not appear in the pass-book; and that in some cases, especially with respect to the income from the Woods, the payments to the bankers were not the net proceeds, after the payment of expenses, whilst the drafts on the bankers were for imprests to the woodwards. Did you ever call on the deputy of the receiver-general for a cash account to be rendered to you?—Yes; in my letter to the clerk of the council, of the 21st of December 1854, I said: "What I have to request, in the first instance, without reference to any other account to be made out, is a simple debtor and creditor statement of all sums received and paid by the receiver-general or his deputy within the period from the 1st of October 1853 to the 29th of September 1854, according to the dates of such receipts and payments; stating against each sum the name from whom received, or to whom paid; and in the case of receipts, from what source of income; and in the case of payments, for what obligation of the duchy."

538. What reply did the clerk of the council make to you?—Upon the 23d of December I received the following memorandum from Mr. Gooch, the first clerk in the office: "With reference to the auditor's letter to Mr. Danvers of the 21st instant, I beg to observe that my reason for not applying for the draft of the receiver-general's account for 1853 earlier, is, that I have been expecting to receive an intimation as to when the auditor proposed resuming the examination of the account which he suspended on or about the 30th September last." My observation upon that is, I purposely retained the account in my possession for the year ending 30th September 1853 until I should have received that for the year to 30th September 1854, in order that the sums to be accounted for in the latter might not be connected with previous transactions.

539. *Chairman.*] Did you communicate that reason to the office?—The whole of these papers were at different times communicated to Earl Granville.

540. You have just read a very natural observation. I desire to know whether you communicated that at the time to the office, by way of an answer to this refusal of Mr. Gooch to supply you with certain particulars?—I sent it to the Chancellor. It was one of the enclosures to the Chancellor in one of the communications which I made to him, showing the impediments which were cast in the way of my receiving a simple debtor and creditor account; and in that letter to Lord Granville I stated that the reasons would be seen by the remarks on subsequent papers which I should have to submit to his Lordship. Then the memorandum goes on to say, "The auditor desires to be furnished, 'in the first instance, without reference to any other account to be made out, with a simple debtor and creditor statement of all sums received and paid from 1st October 1853 to 29th September 1854.' Frequently when Mr. Bertolacci was at the duchy office in September, on his complaining of the principle upon which the receiver-general's account then under examination was made out, I begged of him to be good enough to signify in what other manner he wished to have the accounts in future prepared; but I understood him to say that he contemplated making a report upon the examination of the account for 1853, and that it was his intention then to enter upon the subject. I have concluded, in the absence of any instructions to the contrary, that the same form was to be continued, and I have assumed that the examination of a preceding account would be a preliminary step to the preparation of a succeeding one. The receiver-general's account for 1853 has to be audited; that for 1854 to be prepared and audited, and the accounts for Parliament to be made out, examined, and copied, by the expiration of one month from the day of the first meeting of Parliament after the 1st of January." The remark which I put against that was, my auditing the account for 1853, which was left unexamined by my predecessor, can have nothing to do with Mr. Gooch not applying himself to the making out of his cash account for the year 1854; the auditing of the Receiver-general's account for the year to 30th September 1854, the making out of which Mr. Gooch appears not to have commenced, could not be delayed by the subsequent auditing of itself, and from the time

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time when the annexed remarks were made there was a space of two months before the day on which the return to Parliament was required by the Act to be rendered. The memorandum continues—"Had the auditor intimated his wishes earlier, such debtor and creditor account should have been prepared; but it is submitted that it will be scarcely possible within the time limited to prepare in the first instance a debtor and creditor account, and then the receiver-general's account, and the returns for Parliament. I may perhaps be permitted to observe, that by the Act 1 & 2 Vict. c. 101, it is enacted that 'accounts of receipts and disbursements of the Duchies of Cornwall and Lancaster shall be annually submitted by the proper officers of the said duchies to the Commissioners of Her Majesty's Treasury, in such form, and accompanied by such explanations as the said Lords Commissioners of the Treasury shall from time to time require and direct,' and since the passing of that Act the receiver-general's accounts have been made out in a form as closely resembling as practicable the form prescribed by the Lords Commissioners of the Treasury for the accounts submitted to Parliament." The system of account so tenaciously adhered to is literally worth nothing, as it affords a cover for error and irregularities, and no means of preventing the embodiment of any deficiency in the returns for the current year, should such have occurred at any preceeding period; but this subject will be more fully explained in another document.

541. Is that the letter of the clerk who was acting as deputy to the receiver-general, which in your petition you state to contain evasive pretexts for not rendering the cash account required by you?—Yes.

542. Mr. *Coningham.*] Did you call the attention of Earl Granville, the then Chancellor, to your having asked for the receiver-general's account, and also a cash account?—On the 22d January 1855 I wrote to his Lordship, as follows: "I wish, in order to prevent any unavoidable delay in the business of the duchy, to place in your Lordship's hands the accompanying copies of the correspondence I have had with the clerk of the council since the 21st ultimo, to obtain a statement of the cash received and paid on account of the duchy during the year, for which the accounts have to be rendered to Parliament, and which I intended should form a basis of my proceedings in the investigation and remodelling of the accounts, as desired by the late Chancellor, but as yet such cash statement has not been furnished to me."

543. Did Lord Granville notice your communication?—No.

544. On what date was the cash account rendered which you asked for on the 21st December 1854?—On the 24th January 1855.

545. *Chairman.*] In your letter to Lord Granville of the 22d of January, you called his Lordship's attention to two points; 1st. The absence of the receiver-general's account; and 2dly. That you had not been able to obtain the cash account which you desired; is not that so?—Yes.

546. From Lord Granville you received no notice with regard to the first of those points?—No.

547. But two days afterwards you received from the office the cash account?—Yes.

548. Mr. *Coningham.*] Did you state in the marginal notes of the enclosure to Lord Granville of the 22d of January 1855, that you had wished to retain the receiver-general's account for the year ending the 29th of September 1853, until you had received his account for the year ending the 29th of September 1854?—Yes; in order that the sums to be accounted for in the latter might not be connected with the previous transactions; the reasons for which course will be probably understood by the remarks that I shall hereafter have to make.

549. Is it at variance with the rules of audit to part with accounts once received?—The party accountable tenders his account as a voucher to the auditor, as a discharge of his liability for the sums for which he is liable to account, whilst the auditor by his oath is required to "keep well and truly the records of evidence of the duchy, which shall come to his keeping and ward, and none of them to embezzle or withdraw, nor suffer to be embezzled nor withdrawn." It is therefore quite at variance with the auditor's duties to give up any documents of evidence or accounts and vouchers which have come to him; but apart from this, it must be palpable, that if a party rendering accounts could have the evidence back which he had once made use of, the

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auditor would have no guarantee that such evidence might not be used a second time, and it would be necessary for him to guard against additional risks.

550. On what date did the Receiver-general's deputy return to London from collecting the rents in the country to be included in the accounts to 29th September 1854?—About the 8th of December 1854.

551. How many efforts did you make to obtain the account of the receiver-general from his deputy, before you applied to himself for it?—I applied for the account upon the 21st, the 27th, and the 29th of December 1854, to the clerk of the council, and to Lord Granville upon the 22d of January 1855, and by another letter to the clerk of the council upon the 5th of February 1855. Mr. Danvers states in his letter of the 6th of *February* 1855, "You have requested to be informed whether the receiver-general's account for the year ended the 29th September 1854 is ready for you to audit. I learn from Mr. Gooch, the deputy of the receiver-general, that he is waiting to hear from you in reference to the debtor and creditor accounts, &c., forwarded to you at your request on the 24th of January, for he is left quite in ignorance as to the mode in which you propose to have the receiver-general's account made out. If it be your wish that the account for 1854 be made out in the same manner as that for 1853, he will immediately proceed with it on your returning that account, as stated in my letter to you of the 21st of December last; at the same time, I must beg to remind you that you have not completed the examination of that account which you suspended on the 30th of September last." I wish to remark with regard to that letter, that the cash account which I asked for had nothing at all to do with nor was in any way an impediment to the rendering of the receiver-general's account. That cash account was a basis, as I stated, upon which I wished to work out the receiver-general's account; therefore my having that account in my possession was no hindrance at all to his rendering the account of the Receiver-general up to the 30th of September. On the contrary, I kept the cash account until I should receive the account of the receiver-general to the 29th September 1854, because that very cash account was what I wished to work it out by. Having at a previous stage of my examination stated that the receiver-general's account, as rendered to the auditor, and which was made up in each year to the 29th of September 1854, was a compilation under various heads of transactions not previously journalized, and that payments months after the date to which the account was said to extend were actually passed to that account; also that payments during the period of the account itself were part of the account, and in some cases some of the payments in that period were also charged to other yearly accounts, and that some payments included in the account had been made previous to the first date of the account; it was for this reason that I wished to have, as I have stated, irrespectively of the receiver-general's account, a cash account, so that when an item was carried either to the debtor or creditor, it might be marked off upon that cash account, and that at the end of the period to which that cash account related, a check might be exercised between that cash account and the balance at the banker's.

552. *Chairman.*] Did you acquaint Mr. Danvers or Mr. Gooch that you wanted both the one account and the other, in reply to the last letter that you have read from Mr. Danvers, upon which you have just been commenting, dated the 6th instant?—That fact was stated to them in the first demand that I made for the account.

553. I ask you, did you, after receiving that letter upon which you have now commented, let Mr. Danvers or Mr. Gooch know that you wanted both the one account and the other?—After receiving Mr. Danvers's letter of the 6th February 1855, I wrote to the receiver-general himself, on the same day, and therefore I do not think that I made any further communication to them upon the subject.

554. Mr. *Coningham.*] Did you receive any communication from the Treasury respecting the rendering of the duchy accounts to Parliament, in pursuance of the Act 1 & 2 Vict. c. 101?—Yes. On the 25th of January 1855 I received a letter from the Parliamentary Clerk to the Treasury, saying, "I beg leave to call your attention to the Duchy of Lancaster accounts of receipts, &c. for the year ended Michaelmas 1854, which should be presented to the House of Commons within one month of the meeting of Parliament, and I have to request that you will have the same prepared and forwarded to me for presentation. I enclose you the accounts of last year, which may be of use to you in the preparation of that account for the present one. (signed) *Charles W. Stronge.*"

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To that I replied on the 26th of January 1855, pointing out the various informalities and want of system in keeping the accounts; and I concluded by saying: "I have troubled you with these explanations, first, that you might, with due information on the subject, take the opinion of the Lords of the Treasury, and state whether the account must be laid before the House of Commons by the 23d proximo, examined or not; secondly, that in the event of the Return to Parliament not being made by the date appointed by the Act, and any Member asking for an explanation, the Secretaries to the Treasury might be able to afford it. (*The letter was delivered in, and was as follows.*)

Vide Appendix.

555. What was your next step?—My next step was to apply to General Fox, the receiver-general, himself, by letter, dated the 6th of February 1855: "Sir, in consequence of the system according to which the accounts of the Duchy of Lancaster have been made out and rendered to Parliament not having afforded a secure test of the balances, I felt it my duty, on the 21st December last, to request the clerk of the council to procure for me (from the gentleman who acts as your deputy-receiver) a cash statement of the sums which had been received and paid on your account within the year from 30th September 1853 to 29th September 1854, without reference to any other account to be made out. Objections were raised to this, and your deputy quoted the words of the Act in attempting to excuse himself from rendering any other account than that prescribed by the Lords of the Treasury for the yearly return to Parliament; but after much correspondence, and a lapse of a month, the cash account in question was furnished to me. As the account for the year ended 29th September 1853, which my predecessor (the late auditor of the duchy) had left unexamined, had been presented to Parliament in that state prior to my appointment in the month of May last, I felt that there was no urgent necessity to complete the examination of that account by itself; and for convenience, and reasons of check, I intended to proceed simultaneously with the examination of that account and the one now to be presented to Parliament, which latter I particularly wished should be rendered to me upon its own grounds, without any interconnexion in its details with that for the former year. Not having received any intimation from the clerk of the council or your deputy that the account for the year from 30th September 1853 to 29 September 1854 had been proposed for examination, and having recently received a notification from the Treasury that it must be presented to Parliament by the 23d of this month, I wrote yesterday to the clerk of the council, requesting him to inform me as soon as the account in question should be ready for me to audit it. By a reply which I have just received, it appears that although your deputy placed on record, by a memorandum dated the 23d December 1854, that I had declined to give him any instructions to alter the form of account (and even quoted the words of the Act of 1 & 2 Vict. c. 101, to bring under my notice that the form of account must be prescribed by the Lords of the Treasury), he now alleges as a reason for not having made it out for Parliament, that he was waiting for instructions from me as to the mode in which it should be rendered. Nor does he intend to make out this account until I shall have given him the manuscript of the former account now in my possession, although that account is printed, and although on the 21st December last I informed him, through the clerk of the council, that I did not see that the account of a prior year should interfere with his rendering one of the receipts and expenditure of a subsequent period. I wish to retain in my custody not only the copy of the cash account for the past year, but also the manuscript account for the year ended 29th September 1853, until the account for the subsequent year to 29th September 1854 shall have been handed to me for the purpose of being audited. Should the rendering of the account be further delayed, the inevitable effect will be to oblige the Return to be presented to Parliament without affording time for it to undergo a previous examination; and therefore no other course is open to me than to submit the foregoing particulars to you, and to state that I shall be much obliged if you will take such steps as may be necessary to cause the production of the account to me with as little delay as possible. I have the honour to be, Sir, your most obedient servant, *Francis R. Bertolacci.* —Lieutenant-general Fox, &c. &c. &c."

556. What was General Fox's reply?—On the 7th of February, General Fox replied as follows: "Sir, Your letter of yesterday has reached me this morning. I shall lose no time in inquiring into the subject upon which you

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have addressed me, of which I have had no notice before. Your obedient servant, *C. R. Fox*, Lieutenant-general."

557. When did General Fox communicate further with you?—General Fox wrote to me on the 9th of February; but in reading this letter to the Committee, I wish also to make certain remarks against each paragraph, because I do not admit the grounds upon which that letter was written.

558. *Chairman*] Is this the letter which you refer to in your petition in these words: "That General Fox, in a letter of the 9th of February 1855, replying to your petitioner in very uncourteous language, desired him, in an authoritative manner (although the auditor of his accounts), to give up to the clerk of the council the previous year's account, which your petitioner had stated he wished to keep in his possession for reasons of check until the subsequent account had been rendered to him"?—Yes; the first paragraph of General Fox's letter is this: "I have now had an opportunity of reading the correspondence between Mr. Danvers and yourself in December last, a copy of which you forwarded to the Chancellor of the Duchy." The remark which I make upon that paragraph is this: See the extracts from the under-mentioned correspondence which were enclosed in my letter to Earl Granville, dated 22d January 1855, viz., Mr. Bertolacci to Mr. Danvers, 21st December 1854; Mr. Danvers to Mr. Bertolacci, 21st December 1854; Mr. Bertolacci to Mr. Danvers, 21st December 1854; Mr. Danvers to Mr. Bertolacci, 22d December 1854; Mr. Danvers to Mr. Bertolacci, 23d December 1854; Mr. Bertolacci to Mr. Danvers, 27th December 1854; Mr. Danvers to Mr. Bertolacci, 28th December 1854; Mr. Bertolacci to Mr. Danvers, 29th December 1854; Mr. Danvers to Mr. Bertolacci, 30th December 1854. All the above letters were written before I could get a compliance with my requisition for "a simple debtor and creditor account of sums received and paid within the period from 30th September 1853 to 29th September 1854," by the gentleman who acts as cashier (Mr. Gooch); that is to say, deputy to the receiver-general, General Fox. The letter continues, "This correspondence does not show that Mr. Gooch attempted to 'excuse himself from rendering any account than that prescribed by the Lords of the Treasury for the yearly Return to Parliament,' or that any other objections were raised to your being furnished with a debtor and creditor account, called for by your letter of 21st December, than the time it would take to prepare such an account, which, if given, would be of little use; however, you have now got it." The note against that is this: See the memorandum of Mr. Gooch, dated 23d December 1854, raising various untenable objections on the score of time, while there were two months to the day on which the Return to Parliament should be presented. In his memorandum he indirectly objected to rendering the cash account I asked for, on the ground that it was not in the form prescribed by the Lords of the Treasury for the Return to Parliament. See the memorandum itself enclosed in letter from Mr. Danvers, dated 23d December 1854, and my observations thereon. See my letter of 26th January 1855, to Mr. Stronge of the Treasury, with reference to accounts for Parliament; also observations made by me on the draft instructions (sent to me by Lord Granville), which I sent to his Lordship on 2d February 1855, which show how necessary it is that a separate cash account should be rendered besides the Return to Parliament. The let tergoes on, "You were invited to call at the duchy office and look at the cash accounts, kept by Mr. Gooch. Without calling, you replied that you saw no reason to alter the requisition you had made." My remark upon that is, The accounts kept by Mr. Gooch, as deputy of the receiver-general are private to himself, there being no general cash book or ledger belonging to the duchy; and his book in which he enters the receipts of rents is without dates to such receipts, and is full of penknife erasures. When I was auditing the account at one table I noticed his making erasures with a penknife in his rent-book at another desk. See Mr. Danvers's letters to me of 28th and 30th December 1854, clearly showing that this simple and explicit account of sums received and paid which I had asked for did not exist. Also, that Mr. Danvers and Mr. Gooch assumed what account ought to be rendered to the auditor, instead of the one he had asked for; thus interfering with the course of check and examination he conceived was necessary. Then the letter goes on, "The debtor and creditor accounts were sent to you on 24th January last; Mr. Gooch has been since expecting to hear from you as to the time you intended to enter into the examination of the subjects

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subjects relating to the accounts." My note on that is this: See my letter to Mr. Danvers on the 21st December 1854, asking for the cash accounts in question, in which letter I distinctly pointed out that it was to be independent of any other account to be rendered. See my letter of 6th of February 1855, to Lieutenant-general Fox (the receiver-general of the duchy), in which I stated that as the account for 1853 had been presented to Parliament before my appointment, I did not consider that there was any urgent necessity to examine it by itself, and that for convenience, and reasons of check, I intended to proceed simultaneously with the examination of that account, and the one to be presented to Parliament. Then the letter goes on: "I must here express the surprise I feel at finding that having held the office of auditor for eight months, the examination of my account for 1853 has not been completed." My note against that is this: *Vide* my letter of 6th February 1855 to General Fox, to which he is now replying, wherein I stated that as the account for 1853 had been presented to Parliament before my appointment, I did not consider there was any urgent necessity to examine it by itself, while, for convenience and reasons of check, I intended to proceed simultaneously with the examination of that account and the one to be presented to Parliament. Then the letter goes on: "I find that, during the whole of this time, you have been one fortnight engaged here upon that business. During that time you audited very few of the items of that account, and since the 30th September (four months) you have never resumed this examination." This may be fully explained, if necessary, by the production of a letter which was given to Sir Charles Trevelyan, being enclosed in one to Mr. Stephenson at the Treasury, on the 4th of November 1854; also by a private memorandum I have kept of a conversation with Lord Granville on the 16th of December 1854, and the correspondence with his Lordship; also by Mr. Strutt's statement to the House of Commons, on the 15th December 1854, showing that my absence from the office during the hours of business has not depended upon myself; I have, however, been there on several occasions after four o'clock, on matters connected with other duties than the examination of the accounts. On my proceeding to an examination of the accounts, I found that it was of a very different nature to the general auditing of accounts, and that it involved the perusal of lengthy legal documents to ascertain the sums to be brought to account. The fortnight alluded to was devoted more to obtaining general information on the business of the duchy, which consequently caused much loss of time in conversation, which in many instances was increased by the clerk entering into voluntary criticisms as to the propriety or necessity of the inquiries I was making. The letter continues: "On reading the correspondence, of which you sent a copy to Lord Granville, I find that you are not borne out in the statement that the account for 1853, which your predecessor 'left unexamined, had been presented to Parliament in that state.' You would have found this, had you, as was, in my opinion, your duty, before making such an assertion, or rather accusation, taken the trouble to compare the draft account, which has been so long in your possession, with the printed accounts. The accounts presented to Parliament embrace in detail all receipts and payments made by the receiver-general, as well as those made by the particular receivers, the balances only of those being shown upon the receiver-general's account." My remark upon that is this: By the system, according to which what is here termed the "receiver-general's account" has been rendered to the auditor, it is charged with the balances of rents in arrear, shown (not upon the similar account for the preceding year, but) upon the account to Parliament; and consequently, as the balances with which the account is opened against him in each successive year depend upon the excess or diminution of the arrears of rent included in the Return to Parliament (which is affected by the receipts and payments by the "particular receivers"), the distinction is a mere matter of fiction; because, although what is termed the receiver-general's account is not a *fac simile* of the account to Parliament, yet it is a part of it, and, as his account is charged and relieved by the account rendered to Parliament, which is made out by his deputy, while he (the receiver-general) is responsible for taking proper steps to collect all sums which become due to the duchy, the account presented to Parliament is really the one for the due rendering of which the receiver-general is responsible, and, therefore, is virtually the one which should be considered his account. Then the letter continues: "The receiver-general's account is made out, as you have been informed,

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informed, in a form as closely as possible resembling those presented to Parliament; they cannot be precisely in the same form, for reasons connected with the details, which I shall not enter into, but which you will easily ascertain here." This entirely bears out my former remark. Then the letter continues: "I am at a loss to understand your object in stating that my deputy has placed on record a memorandum (23d December 1854) that you had declined to give him any instructions to alter the form of account, &c. &c." The following is a quotation from Mr. Gooch's memorandum: "Frequently, when Mr. Bertolacci was at the duchy office in September, on his complaining of the principle upon which the receiver-general's account, then under examination, was made out, I begged of him to be good enough to signify in what other manner he wished to have the accounts in future prepared; but I understood him to say he contemplated making a report upon the examination of the account for 1853, and that it was then his intention to enter upon the subject. I have concluded, in the absence of any instructions to the contrary, that the same form was to be continued." Then the letter goes on, "I am informed that so long ago as last September you made objections to the system upon which the receiver-general's account was made up. You were then requested to signify in what way you wished to have it made out in future. You have never done so, though you now seem to refer to this point as implying neglect on the part of my deputy." What I did was, to remark on the imperfection of a system of account which did not admit of balances, amounting to 14,469*l.* 17*s.* 1½*d.*, being identified with any date, precise details, or cash accounts. General Fox's deputy, in his memorandum of the 23d of December 1854, already referred to, pointed out to me that the account for Parliament, under 1 & 2 Vict. c. 101, was to be rendered "in such form, and accompanied by such explanations, as the Lords Commissioners of the Treasury shall from time to time require and direct." To which he added, "and since the passing of that Act the receiver-general's accounts have been made out in a form as closely resembling as possible the form prescribed by the Lords Commissioners of the Treasury for the Accounts submitted to Parliament." How can General Fox, therefore, blame me for not doing that which his deputy pointed out could only be done by the Lords of the Treasury. It will be seen, however, by my letter of 26th January to Mr. Stronge, the gentleman at the Treasury whose duty it is to attend to such matters, that I have brought under the notice of the Treasury the imperfection of the system alluded to, and by his reply of 27th January 1855 (after consulting the proper authority), that the Lords of the Treasury must be moved on the subject by the "Heads of the duchy office." Therefore, after the observations made by me to General Fox's deputy, and as General Fox is a member of the council of the duchy, the blame, if any, remains with himself. I did not attribute neglect to the deputy of the receiver-general for not making out the account in a different form, but for not rendering it at all after his saying that he had "concluded, in the absence of any instructions to the contrary, that the same form was to be continued," and for pleading as an excuse for not accounting for the transactions from 30th September 1853 to 29th September 1854, that he had not the account in his hands for the year which expired before that period commenced. The letter continues, "It appears also by your observations upon Mr. Gooch's memoranda, which you appended to the copy of correspondence sent to Lord Granville, that after expressing insinuations, some of them inapplicable to those memoranda, you conclude by observing that, 'the system of account which is so tenaciously adhered to is literally worth nothing, as it affords a cover to error and irregularities,' &c. &c. This statement you made without any reference to me or any one else." My remark upon this is: the last account which was balanced, audited and declared, contained an error of 50*l.*, which was not shown on such declared account. I am therefore still of opinion that a system of account which admits of such irregularities without being shown by a discrepancy in the balance, is not only worth nothing for the object it professes, but is worse than worthless, inasmuch as it might afford a covering for irregularities of a much greater extent. The error is admitted and shown in the manuscript account of the receiver, which he wants me to relinquish to his deputy before his account for the last year is rendered. I wish also to state that these accounts of the receiver-general are entered in a book. In September, when I was at the duchy, that book was exhibited to me. In the account for 1852, in which the error of 50*l.* occurred, which was exhibited to

me

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me in the book signed by the auditor, no note whatsoever was made of that error, and the only way that I detected it was by the entry that was made in the subsequent account. But when I put this forward in this letter the original draft was brought forward as an argument that it had been taken notice of, and the draft showed upon the face of it that some notice had been taken of the circumstance at the time. But when I made these observations, there was nothing in the account shown to me to prove that that error of 50*l.* had been noticed by the previous auditor. The letter continues, "I must express my surprise at your requesting vouchers belonging to any account of mine to be taken out of the office, and consider it was not regular your being allowed to have them at your residence, as of course you would have ready access to them here. However, I have now desired that no document or voucher for which I am responsible be given out of the office, without my permission, or in case of my absence, that of the clerk of the council." My remark upon that is, the propriety of the auditor taking papers to his own house was discussed by Mr. Strutt with the clerk of the council when I was at the duchy office before my appointment, and was sanctioned by the Chancellor. Apart from the above fact, General Fox has taken a wrong view of the matter. His accounts and the vouchers to his accounts have really no right to be in the duchy office, until they are audited by me, and by me placed there. They are, in fact, only his own personal papers, which he, as an accountant, tenders to me in discharge of his liability to the duchy, and which by my patent of auditor I am authorized to call upon him to do without reference to place or time; while he, as a receiver, is by the same deed commanded by Her Majesty to "be in all things attending, observing, aiding, and advising" to me. General Fox has appointed a deputy to act for him, and the documents to which he refers have been given to me upon my demanding them from that deputy. The clerk of the council in this case has nothing to do with the subject; he, on the contrary, is one of the parties accountable to the auditor for the sums he has to account for. Then the letter goes on, "You will be so good as to return under cover to the clerk of the council, the drafts of the receiver-general's account for 1853, with as little delay as possible, as in case of your not suggesting a new form, I must have it in order to prepare the account of 1854. You have had four months' time to consider what is the best form, but no suggestion has come from you." My remark upon that is this, General Fox, in a previous part of this letter, has adverted to my quotation from the memorandum by his deputy, in which he pointed out that the form must, by Act of Parliament, be prescribed by the Lords of the Treasury, and I have already in these notes shown, that after my remarks to his deputy on the subject, the matter remains with himself. It is the system of making up an account to accord with a prior one, instead of each account being purely the result of the year's transactions to which it relates; that, I object to, as acting in contravention to check. See the letter to me from Mr. Stronge, dated Treasury, 27th January 1855, stating that any application for alteration in the form of account must be made to the Lords of the Treasury by the heads of the duchy; and besides this, General Fox is wrong in saying I have made no suggestions, as on several occasions I have, in conversation with the clerk of the council, stated, as my opinion, that there should be a journal and ledger belonging to the duchy; that all sums received by the receiver-general or his deputy should be paid into the Bank in full without any deductions therefrom to make payments with; that there should be an order of the court for all payments to be made; that drafts should be drawn on the Bank for payments to be made by the receiver-general, instead of applying the cash to that purpose which is received for rents, &c.; that the receiver-general should render a cash account, yearly, of all sums received and paid by him, and that the balances brought forward from year to year to the debtor side of his account should not be confounded with those in the Return to Parliament; but should be borne out by a detail showing every item of which they are composed, so that the arrear account of rents might always be checked by the sums included in the cash account of the current year as received on account of prior years. Then the letter goes on, "As the auditing of the accounts for 1853 is not yet completed, I should suggest to you, that you should lose no time in completing them at the duchy. I have also to intimate to you, that I shall consider it to be my duty to urge upon the Chancellor not to permit the accounts of receipt and expenditure to

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be sent to the Treasury till the receiver-general's account for 1854 shall have been duly audited and declared." Against that paragragh I remark, that if General Fox considers this course to be his duty, how does he reconcile with that fact the keeping of the account for the year from September 1851 to September 1852, open intentionally until May 1854 for an object which (if that which I was informed of by his own deputy be correct), is quite at variance with that which should have been the case, namely, to allow Lord Granville an opportunity of paying his rent for mines, &c. Then the letter continues: "If there should arise any delay in furnishing these accounts, it will therefore rest with you as auditor, whose duty it was to examine the previous account." My remark upon that is this: The delay will arise out of General Fox's account, as receiver-general, not having been made out and submitted to me to be audited. The account for the year ended 29th September 1853 was presented to Parliament before my appointment, and should have been audited by my predecessor, or by a deputy of his, before his resignation in May 1854. General Fox first lays down the rule by which he may cause delay, and then infers that the blame will be with the auditor. Then the letter continues: "In conclusion, I have to inform you, that so soon as a Chancellor is appointed, I shall place the whole of this subject before him; I shall further suggest that you should either give proper time to the business of this office, or that you should confine your duties to the Ordnance Office. I have two reasons for this suggestion; 1st. That, from what I can make out, you have not inspected the accounts in such a manner as to make yourself master of them during the last eight months." My remark upon that is this: Thus, the receiver-general, who is the accountant, holds out a threat to intimidate the auditor and make him adopt a different course in the examination of his accounts to that which the auditor has told him he wished for reasons of check to adopt. The letter continues: "Secondly, that from having your regular business as an Ordnance clerk to attend to from the hours of ten to four, you cannot be here at the proper official hours; and though Mr. Gooch, my deputy, has, in the usual zealous manner in which he performs his work, offered to attend beyond those hours, I do not consider it to be fair upon him when it is merely to meet the convenience of a gentleman who holds another office. Postscript: on second thought, I think it will be more desirable for me to place a copy of this correspondence in Lord Granville's hands, requesting him to show it to his successor, since Lord Granville is already aware of the general circumstances of the case, and will be able to explain to whoever may be appointed Chancellor. *C. R. Fox.*" Upon that I remark: the receiver-general is outstepping the limits of his province, which is to render an account of the sums he has received. The Chancellor of the duchy specially asked the Chancellor of the Exchequer to recommend a gentleman to fill the office of auditor who held an appointment in some Government office. See Mr. Strutt's statement to the House of Commons on the 15th of December 1854, respecting my appointment as auditor of the duchy, and the Government have declined to allow me to attend at the duchy office from ten to four o'clock. But as this forms the subject of a separate correspondence between Earl Granville, the Treasury, the Ordnance Office, and myself, and has been decided by the Government, it is not necessary that I should take further notice of General Fox's observations on this point. The statement made by General Fox with reference to his deputy, would lead to the conclusion that his deputy had, for my convenience, voluntarily offered to attend at the duchy office, and devote those hours to business, for which he received no pay, rather than that any impediment should be assigned by me as an excuse for not examining the accounts. The facts of the case however are, that on the 21st of December 1854, I wrote to the clerk of the council, saying, "I shall be obliged by your informing me when the account for the year ending on the 29th of September 1854 is made out, for me to audit it. I will then attend at the office of the duchy from six to half-past eight or nine in the evening, to go into the matters relating to it; and I must request you to make such arrangements as will afford me the aid of somebody acquainted with the papers and books of the duchy, to produce to me such documents as I may call for." It might be more reserved in me to pass by unnoticed those allusions which General Fox has made with regard to my holding an appointment in the Ordnance Department conjointly with that of auditor of the Duchy of Lancaster

Lancaster in an objectionable light, after the explanation given in the House of Commons as to that fact, and as he considers that the result of my holding two appointments is to tax unfairly the time for which another gentleman receives no remuneration, upon which grounds he holds out as a threat that he will recommend to the Chancellor that I should confine myself to the Ordnance duties. In the first place, with regard to General Fox's objection to two appointments being held by one person, I may state, that when he was Surveyor-general of the Ordnance, he also held his present office of receiver-general of the duchy. Our respective appointments in the duchy were, however, under different circumstances, namely, that his appointment was by the patronage of his father, and that in my case the Chancellor of the duchy through whom I was appointed, had no other prior knowledge of me than the Chancellor of the Exchequer's recommendation of me as a fitting and deserving person to hold the appointment of auditor, in consequence of the public services I had rendered in the performance of difficult duties confided to me by the Treasury; also, that the combined amount of my salary was only about one-fourth of what General Fox was in the receipt of, when he held the two appointments in the Duchy and Ordnance. Secondly, that General Fox is alleged to be in the receipt of 200*l.* fixed salary, besides allowances varying in amount from 323*l.* to 407*l.*, whereby his yearly emoluments from the duchy, as receiver-general, have been represented to range from 523*l.* to 607*l.*, only while he has actually been in the receipt of 878*l.* fixed salary, and has deputed his duties to a gentleman, who receives 450*l.* per annum for acting as clerk to the duchy, but devotes the time thus paid for in performing the duties of General Fox, who thinks I ought rather to resign my appointment than that this gentleman (his deputy) should attend occasionally at the office after the official hours, to render information to me when his account is under examination.

F. R. Bertolacci, Esq.

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Veneris, 3° die Julii, 1857.

MEMBERS PRESENT.

Mr. Bramston.	Viscount Goderich.
Mr. Coningham.	Mr. J. Hans Hamilton.
Mr. Sotheron Estcourt.	Lord Harry Vane.

T. H. S. SOTHERON ESTCOURT, Esq., IN THE CHAIR.

Francis Robert Bertolacci, Esq., called in; and further Examined.

559. Mr. *Coningham.*] WILL you state those facts which you think ought to be considered in conjunction with General Fox's letter of the 9th of February 1855?—In the month of May 1854, I was appointed to the auditorship of the duchy. It was not until the 20th of November 1854 that I had free access to the minutes. In the beginning of December 1854, the deputy to the receiver-general went into the country to collect rents. On his return, I called, on the 21st of December 1854, for a cash account to be rendered to me, with which I intended to check concurrently the accounts for 1853 and 1854. On the 22d of December 1854, Earl Granville intimated to me his intention to draw up some draft of instructions for me to follow in the examination of the accounts of the duchy. On the 18th of January 1855, his Lordship called on me to make observations upon the draft of those instructions. The cash account alluded to before, embracing the sums carried to the receiver-general's account for 1853 and 1854, was not rendered until the 24th of January 1855. On the 2d of February 1855, I returned the draft instructions to Earl Granville, with my observations thereon. On the 6th of February 1855, I wrote to General Fox, stating that I could not obtain the account for the year ended 29th of September 1854, from his deputy, and that, for reasons of check, I wished to retain in my possession the previous year's account.

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560. Will you read your reply to General Fox's letter of the 9th of February 1855?—On the 10th of February 1855, I wrote to General Fox as follows: "I have had the honour to receive your letter of the 9th, in reply to mine of the 6th instant. The only object of my addressing you was to secure, if possible, the production of your account for the year ended 29th of September 1854, in time to audit it, preparatory to the accounts of the Duchy of Lancaster being presented to Parliament, as required by statute, on the 23d instant, and it would have been my desire, should you have wished for any explanation of my views, to have communicated, without reserve, to you on the subject, as your duties are done by deputy. The tone, however, of your letter, and the allusion to your intended recommendation to the Chancellor of the duchy, I regret to say, preclude me from entering into any more details; but should the Chancellor desire any communications from me on the subjects mentioned by you, I shall be both ready and willing to make them to him. I feel it, however, to be my duty, as auditor of the duchy, to request the favour of your attention to those parts of my letter of the 6th instant, in which I stated, that as the account for the year ended 29th September 1853 was presented to Parliament prior to my appointment, I did not conceive that there was any urgent necessity to complete the examination of it by itself, and, for convenience and reasons of check, that I intended to proceed simultaneously with the examination of that account, and the one was to be presented to Parliament, which latter I particularly wished should be rendered to me upon its own grounds, without any interconnexion in its details with that of the former year. Also, that I wished to retain in my custody, not only the copy of the cash account for the last year, but also the manuscript account for the year ended 29th September 1853, until the account for the subsequent year, to 29th September 1854, should have been handed to me for the purpose of being audited. After this repetition of the wishes expressed in my last letter, I hope you will excuse my troubling you to state whether you still desire that I should relinquish the manuscript copy of your account for the year 1853, and give it up to your deputy receiver prior to the account being made out for Parliament for the year ended 29th September 1854, and whether for the same reason you maintain your determination not to render the usual account to me for the period during which I have been auditor until I give you the discharge for your prior account, which you should have obtained from my predecessor in office, before the month of May last. I have the honour to be, &c., *F. R. Bertolacci.*"

561. What was General Fox's answer to that letter?—On the 14th of February 1855, General Fox replied as follows: "Duchy Office. Sir, Your letter reached me the day before yesterday night, the 12th. I still adhere to my resolution expressed to you not to permit documents for which I am responsible to be taken out of this office, you will therefore return the accounts forthwith. I have desired my deputy to report to me when the clerk of the council shall have received them; you can always examine them here. The reason why the discharge for my prior account was not given by your predecessor must be well known to you; it was owing to the very bad state of his health for many months before his retirement and death. In your last letter, you allow yourself to make observation upon the tone of my letters; I meant only to speak plainly, and make myself understood distinctly; but I consider the tone of the latter part of your last letter to be of such an impertinent nature, that I have to desire that you will in future address all communications intended for me to the 'Clerk of the Council' here, and not to me; he will transmit your letter to me, and I shall send any replies they may require through him. I am, sir, your obedient servant, *C. R. Fox*, Lieutenant-general.—*F. Bertolacci.*" I merely wish to remark, with regard to the reference in this letter with respect to the auditor's health, that by his patent he was allowed to act by deputy if necessary.

562. *Chairman.*] Is that the letter which, in your petition, you describe as "not only uncourteous, but most offensive and overbearing"?—Yes.

563. "Omitting to your petitioner's name the terms of civility commonly used, but adding to his own signature his military rank of 'Lieutenant-general'"?—Yes.

564. Will you point out exactly in what manner it was that the "terms of civility commonly used" were omitted in reference to your name?—In the letter which I received he addressed me at foot "F. Bertolacci;" neither Mr. nor Esq.

565. Viscount *Goderich.*] How was the letter addressed outside?—I cannot say

say now; it very likely came from the clerk of the council, inasmuch as it was addressed from the duchy office.

566. *Chairman.*] What are the Committee to understand by your saying "adding to his own signature his military rank of 'Lieutenant-general,'" was that an unusual thing in the case of a letter from General Fox?—I never had any communications with General Fox except upon this particular matter.

567. You observe that he adds to his own signature "Lieutenant-general;" do you understand that to have been by way of intimidating you?—I do not see how he could possibly intimidate me by putting his military rank to his name; but it certainly struck me that it showed an animus which was inconsistent with the civility and the tone of my letters to General Fox.

568. Do you really think that a gentleman, whose rank was that of Lieutenant-general, could have intended, by adding that to his signature, to show any animus against you?—I think it showed, as I am sure it did show, from other circumstances which have come to my knowledge, that he treated me with a degree of disrespect, or perhaps I am using a wrong word, but a want of civility; that he felt himself a contempt towards me that there was no ground for.

569. Admitting that, do you really intend that the Committee should understand your meaning to be that the addition of the term "Licutenant-general" to his name was in any way intended to prove or show to you that contempt?—I think it was.

570. Will you turn to General Fox's letter of the 9th February, and tell me whether "Lieutenant-general" is not added to his name there?—Yes, believe it is added to his name there also.

571. Have you received any other letter from General Fox besides those two?—No, I have received no others at any time whatsoever.

572. Therefore in the two letters which you received from General Fox, finding the words "Lieutenant-general" placed under his name, you conceived that those words were put there by way of showing his contempt for you?—I think so, in conjunction with the want of ordinary courtesy in addressing me at the foot of the letter; and he also, in a communication to a gentleman whom I met at the same time, used terms of opprobrium to me, and, indeed, language not quite consistent, I conceive, with the ordinary usages and language of a gentleman.

573. Do you really think that the words "Lieutenant-general" put after his signature were intended to express anything at all towards you?—I certainly think that he wished to show the difference of rank; and from a communication which was made to me by a gentleman to whom he spoke, there could be no doubt that he considered that his accounts ought not to be checked by a gentleman in the Ordnance Department.

574. Did you think that that was implied by his putting the words "Lieutenant-general" at the foot of the letter?—I think that it showed the animus with which the thing was done.

575. Mr. *Coningham.*] You received this impression from the contrast of General Fox entirely omitting the ordinary terms of courtesy towards yourself, while he put prominently forward his rank and position in the public service?—I think so, decidedly.

576. What were the office hours at the Duchy Office?—From ten to four.

577. What were the office hours at the Ordnance Office?—Also from 10 to 4.

578. How far are those offices apart?—From a mile to a mile and a half.

579. Had General Fox, the receiver-general of the Duchy of Lancaster, any opportunity of knowing the office hours at the Ordnance?—He had, with two different administrations, held the office of Surveyor general to the Ordnance, and as such was the head of the audit branch of the Ordnance Office to which I belonged.

580. And General Fox, notwithstanding this, wrote to you, on the 9th February 1854, stating that, when a new Chancellor was appointed, he would recommend that you should be required to give up the duchy, unless you attended at the Duchy Office from ten to four o'clock?—Yes; that was the purport of the concluding part of his letter.

581. And he complained that his deputy should have to attend at the duchy office, for you to audit his accounts, after four o'clock in the day?—Yes.

582. Is General Fox's deputy receiver a clerk in the duchy office?—He is.

 583. What

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583. What is that gentleman's salary for acting as clerk to the duchy?—£. 450 a year.

584. Is there such an established office as deputy receiver-general to the duchy?—No; the receiver-general might depute any one that he liked to act for him in collecting and paying the money of the duchy.

585. Then, in fact, the person who acts as deputy to the receiver-general is not, as his deputy, the servant of the duchy, but of the receiver-general individually?—That is the case.

586. Does not it consequently follow that, if General Fox occupies the time of one of the duchy clerks between the hours of ten and four to do his work for him, he is taking up that time which the duchy pays for to be applied in another manner?—There can be no doubt of that fact.

587. After you had written five letters to the duchy officials alluding to General Fox's deputy not having rendered his account to 29th September 1854, did not General Fox, by his letter of 7th February, state that up to that date, he was ignorant of your correspondence on the subject?—That was the purport of his reply, and that he would inquire into the matter.

588. What is the amount of salary drawn from the duchy by the receiver-general?—£. 878 a year.

589. Was General Fox present at the council when the subjects connected with your representations to Earl Granville respecting your claim to a seat at the Council and to your holding the two appointments were discussed?—On the 30th of October I communicated with Earl Granville on the subject of the double calls on my time, as shown by my letter to Mr. Stephenson of the 4th of November 1854. On the 21st of November 1854, the clerk of the council, in reply to my inquiry, said that the receiver-general was present at the council on the 14th of November 1854, and that it was at this council that the question was discussed; and Lord Granville, in his letter of the 4th of December 1854, stated to me that, after he had seen me on the 30th of October, he had communicated with Sir Charles Trevelyan, and that they considered it would be useless for them to apply to the Ordnance for leave of absence for me to audit the duchy accounts; and in the same letter his Lordship alluded to my admission to the council, which was part of the general question raised by me, having been very fully discussed at the council.

590. Did the clerk of the council write to you in a peremptory manner on the 16th February 1854, by order of General Fox, demanding the delivery to him of the account for the year 1853, which you had stated you wished to retain for reasons of check?—Yes.

591. Will you read that letter?—On the 16th of February 1855, Mr. Danvers wrote to me as follows: "The draft of the receiver-general's account for 1853, for which General Fox has written to you, not having been returned to this office, I have received his instructions to request that it may be immediately transmitted under cover to, dear sir, yours truly, *Fk. Dawes Danvers*."

592. What reply did you make to that letter?—On the 16th of February I replied as follows: "In my letters to the receiver-general on the 6th and 10th of this month, I stated that for reasons of check I wished to retain his account (*i. e.* of his deputy for the year ended 29th September 1853, which had not been examined by my predecessor when he resigned in May 1854), until the one to 29th September 1854 should be produced to me for the purpose of being audited, and that I intended to examine the two accounts simultaneously with the cash account of his deputy. The newspapers mention Sir Francis Baring as having accepted the office of Chancellor of the Duchy of Lancaster; but, as you do not inform me that such is the case in reply to mine of the 14th instant, in which I requested you to let me know as soon as a Chancellor was appointed, I shall be obliged if you will be so kind as to tell me whether Sir Francis Baring really is the Chancellor or not; for I wish, without delay, to communicate with whomsoever may hold the office." My reasons for writing this letter were, that I was anxious as soon as a Chancellor was appointed to make a demand for the accounts to be produced to me which were withheld, as at that time it was understood that Lord Granville was not acting.

593. Who are the officers responsible to you by your patent?—"All sheriffs, barons, mayors, justices, constables, bailiffs, receivers, farmers, prepositors, and ministers whomsoever."

594. When did you take steps to ascertain your powers of compelling the rendering

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rendering of accounts to you?—On the 15th February 1855 I wrote to Mr. Thomas Flower Ellis, the attorney-general of the duchy, as follows: "Sir, I beg leave to enclose extracts from the patent, by which I hold the office of auditor to the Duchy of Lancaster, and which point to the rendering of accounts by those who are accountable to the Queen in respect of the duchy. As I am desirous to know what powers are thereby conferred on me to discharge the duties of auditor, may I request the favour of being informed by you what course I should pursue in the event of the accountants either neglecting or refusing to render accounts; also who are the parties responsible, under the Act of 1 & 2 Vict. c. 101, for the rendering to the Lords Commissioners of Her Majesty's Treasury the accounts or returns to be laid before Parliament. My object is, to act in every respect in accordance to what may be legal within the jurisdiction of the duchy, and therefore I hope you will excuse the trouble I am asking you to take, and for which I shall feel myself much obliged."

595. What was Mr. Ellis's reply?—On the 17th of February Mr. Ellis replied as follows: "I am sorry that the very great pressure upon my time at this moment has prevented me from answering your note of the 15th earlier. I think that no opinion of mine, given by way of private communication between ourselves, would have an authority, or would protect you in adopting the course which I might recommend. I could, of course, offer you my private opinion, but this, I presume, is hardly what you want, as you could not refer to it as furnishing an authoritative guide. I will, if you like, lay your communication before the council, and they will probably (whether upon taking my opinion formally or without it) inform you what views they take of your responsibilities and duties in the particulars to which your note refers." (signed) "*T. F. Ellis.*"

596. Had you any further communication with Mr. Ellis on the subject?—Yes; I wrote to Mr. Ellis on the 19th of February, as follows: "Sir, I have had the honour to receive your letter of the 17th in reply to mine of the 15th instant, which I took the liberty of addressing to you in my official capacity of auditor of the Duchy of Lancaster. I was not aware that in seeking information from you as to my powers as auditor to carry into effect the commands of Her Majesty, by my patent, I was trespassing privately on your professional talents. I believe that to the office of auditor of the duchy there appertain constitutional duties which connect me with the council of the duchy; but having, on receipt of your letter, again referred to my patent, I find that with respect to the subject stated in my letter to you, I have (unconnected with the council for self-evident reasons) a distinct and independent charge from the Sovereign." (signed) "*F. R. Bertolacci*, Auditor."

597. Did Mr. Ellis give you the legal advice that you had asked for?—No; he evaded the question.

598. Will you read his letter which you state to be evasive of the questions that you had put to him?—On the 21st of February 1855, Mr. Ellis wrote to me as follows: "I infer from your note of the 19th, that it is not your wish that I should lay your inquiry before the council. If I am mistaken in this, be so good as to let me know. I should mention that I shall very shortly leave London for some time; this, however, is of no real consequence, as, should you determine on hearing the views of the council, that can be done without my intervention, though I shall be happy to bring the matter before them, if you prefer this, and will let me know your wishes in time." (signed) "*T. F. Ellis.*"

599. Did you object to his laying your correspondence before the council of the duchy?—No, I did not object, although I thought it unnecessary that he should do so, instead of furnishing me the information that I required; and as my letter in reply to his last is a short one, I will beg leave to read it. On the same day, 21st February 1855, I wrote to Mr. Ellis as follows: "In reply to your letter of to-day, I beg leave to say that so soon as a Chancellor shall have been appointed to the Duchy of Lancaster, I can have no objection to your making any communication to the Chancellor and council which you may consider, after my last letter, that my reference to you requires, if you conceive you are not authorised, without adopting that course, to afford me the information I have, as auditor, officially solicited from you. If you consider it necessary to submit the matter to the Chancellor and council, then I shall feel obliged by your laying this and my prior letters to you before the Chancellor." (signed) "*F. R. Bertolacci*, Auditor."

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600. Is it not one of the duties of the auditor to examine into the sufficiency of the security bonds entered into by, or on behalf of, the receiver-general and other officers?—Yes.

601. How do you prove that to be the fact?—By a letter from the clerk of the council on the 8th of July 1854, in which he said, "I beg to acquaint you that it is the duty of the auditor and the clerk of the council to examine annually (about this time of the year) into the sufficiency of the security bonds entered into by or on behalf of officers of the duchy. Whenever convenient to you to make an appointment for this examination, I will have the bonds out in readiness."

602. Did you not put that forward to Earl Granville in your remarks, dated 2d February 1855, on the draft of the instructions which he then proposed to give you, as a proof that the functions of the auditor were not solely ministerial, but that they were also deliberative and judicial?—Yes.

603. *Chairman.*] Is there anything that you have omitted to state with regard to your correspondence with the attorney-general that you desire to add?—Yes. After my first letter, and the interpretation which the attorney-general put upon it as to its being private, I specially put the title of my office after my signature, to show that my written communications to him were not of a private nature.

604. Mr. *Coningham.*] Did Earl Granville, upon receiving your remarks, dated 2 February 1855, curtail those functions, thus, in fact, adapting the instructions he had drawn up for your guidance to the position in which attempts had been made to place you?—His Lordship thereupon struck out of the instructions the sections by which the auditor was required to examine into the sufficiency of the security bonds; and his Lordship, at the same time, also erased the sections which the draft of the instructions contained, requiring the auditor to see "that the amount of the balance in the hands of the receiver-general is not larger than appears necessary for his immediate requirements," and "that the amount not immediately required is placed out to the best advantage."

605. In Earl Granville's letter to you of the 18th January 1855, transmitting the draft of instructions for you to make your observations thereon, he said that such draft had been prepared by the assistance of the Audit Office; what did his Lordship say on the subject in his subsequent letter of 2d March, forwarding to you the instructions, such as he had decided to force on you?—Earl Granville said, in his letter of the 2d of March 1855, that those instructions had been prepared in the duchy office, with the assistance of the Audit Office.

606. Were those the instructions on which you made your observations, showing that if you were bound to follow them the check on the accounts would not be efficiently carried out?—Yes.

607. You have stated to the Committee that the Audit Office was not a competent office to define the duties of the auditor of the Duchy of Lancaster; will you explain to the Committee why you held that opinion?—Because the functions and the duties of the auditor of the Duchy of Lancaster were affected by the principle involved in the duchy being a palatinate, of which the auditor was one of the principal officers to whom the governance of such duchy was entrusted, and therefore to the auditor of the Duchy of Lancaster were entrusted the double duties, similar to those of the Commissioners of Audit and the Treasury Auditor and the Treasury Board in respect of the landed property of the State, whilst the duties of the Audit Office were confined to ascertaining the sums which had passed through the Exchequer, and been accounted for under proper authority, emanating from Acts of Parliament voting the monies to be expended, and under orders emanating from the Treasury.

608. Did you, in your letter of the 6th of March 1854, state to Earl Granville that when you first received the draft of those instructions you recognised that they had been prepared in the duchy office?—Yes, because they corresponded with the remarks made to me at different times by the receiver-general's deputy and the clerk of the council as to what they considered were the duties of the auditor.

609. *Chairman.*] Will you be so good as to put in the instructions as finally approved by Lord Granville, together with Lord Granville's letter which accompanied them, and the draft of instructions, with your remarks?—Yes; the draft

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draft instructions with Earl Granville's letter of 18 January 1855; my reply, with remarks, on 2 February 1855, and Earl Granville's letter with final instructions, on 2d March 1855, and my answer of 6 March 1855. [*The same were delivered in.*

610. Mr. *Coningham.*] In your letter of the 6th March to Earl Granville, did you not (in reply to a question from Lord Granville on 2d February 1855), state that you would attend at the Duchy Office from six to half-past eight or nine in the evening, but did you not, at the same time, remark that it was rather severe on you to oblige you to devote the hours of rest to such a purpose, after your duties at the Ordnance?—Yes; in that letter to Earl Granville I alluded to the detention from me of the leave which Mr. Monsell had promised I should have from my attendance at the Ordnance Office. I also in that letter repeated to his Lordship that the receiver-general's account to the 29th of December 1854 had not been rendered to me.

611. Did Lord Granville communicate further to you on the subject of the accounts or the duchy business?—No.

612. *Chairman.*] That ends your communication with Lord Granville?—Yes.

613. Mr. *Coningham.*] Was the Earl of Harrowby appointed Chancellor on the 31st of March 1855?—Yes; and I wrote to his Lordship on the 18th of April 1855 as follows: "My Lord, As I perceive that your Lordship has entered upon the duties of the office of Chancellor of the Duchy of Lancaster, I beg leave most respectfully to call your attention to the facts that the accounts, for the year ended 29th September 1853, were last year presented to Parliament before my appointment, without the receiver-general's account (from which they were made up), having been audited; and that the accounts for the year ended 29th September 1854, which should have been laid before the Houses of Lords and Commons by the 23d February in the present year, have not been rendered. Neither has the account from which the statement should have been made out for Parliament to September last been produced to me for the purpose of being audited. For the reasons stated in my letter to Earl Granville of 22d January, and explained in the paper enclosed by me to his Lordship on 2d February 1855, I wished to conduct the audit relating to the period for which the accounts of the duchy were last presented to Parliament, simultaneously with the examination of the accounts for the year ended 29th September 1854, and to look to the prior accounts to test the balance brought forward from the account of 1852, which, although audited and declared, appears to be incorrect by a statement in the subsequent year's account. I need scarcely add, that I am at your Lordship's commands, should you desire to see me." On the 4th of May Lord Harrowby wrote to me from the duchy office: "Wishing to address you at some length on matters connected with your office of auditor of the duchy, I have deferred until now replying to your letter of the 18th April. Since receiving the seals of the Duchy of Lancaster, I have attentively read the correspondence which took place between yourself and the late Chancellor of the duchy, together with your Statement and Report, dated 10th March 1855; also your correspondence with the receiver-general of the duchy, and other papers, including your remarks on the incidental account rendered by the clerk of the council of the duchy, from 16th August to 6th December 1854. I must confess to you that I have not drawn from your Statement and Report of 10th March the same conclusions which you have, especially with respect to the claim of right you set up, as auditor, to a seat at the council; nor could I see that the auditor's exclusion from the council could in any way interfere with his duties. I have, however, thought it advisable that your Statement and Report should be submitted to the law officers of the duchy, who have stated that they are of opinion, most clearly, that the auditor has not, by the arguments referred to, established any right to claim a seat at the council; and that they are also of opinion, most clearly, that the auditor is not, by not being admitted to such seat, deprived of any power necessary to discharge the duties belonging to his office." Upon that I remark, *see* my correspondence with the attorney-general of the duchy, asking what were my powers to obtain accounts from parties either neglecting or refusing to render them; to which Mr. Ellis gave evasive replies, amounting to a refusal to give me the information, and wished to refer the question to the council, of which the receiver-general (who had persisted in not rendering his account) was a member. The law officers (of

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which the attorney-general of the duchy is one) are not made to say that the auditor is not, by virtue of his office, a member of the council, but that he is not so by their construction of my arguments. The letter continues, "I may here observe that it appears by the duchy minutes that when you received the appointment of auditor, it was perfectly understood that you were not to have a seat at the Board." Upon that I say, when Mr. Strutt communicated with me, he said that I should not be required to attend the council on every occasion, or unless for matters connected with my office. Afterwards Mr. Strutt admitted to me, in the Lobby of the House of Commons, on the 26th June 1854, that he had mentioned that to me when I was appointed, as there were doubts whether, as auditor, I did not belong to the council, and as at the time the appointment was offered to me I could not have been supposed to possess information on the peculiar constitution of the duchy, as a trust for the Crown, it shows that an unfair advantage was taken of my inexperience in the matter, to effect an unconstitutional change; *see* Act of 39 Henry the Sixth, (printed in Hardy's edition of the Charters of the Duchy of Lancaster, printed 1845); whereby the Chancellors and council of the north and south parts of the duchy were centralised under one Chancellor and council, including the auditor. The letter goes on, "It would also appear that your duties at the Ordnance during office hours would not admit of your attending the council, even if it were thought proper to summon you thereto." Upon that paragraph I observe the question of the auditor being or not being a member of the council, depends upon the constitution of the duchy, and the power of the individual to divest himself of that which appertains to his office, and not upon the question whether the "Ordnance office hours" were or were not those of the duchy business. The letter goes on, "From your correspondence with the receiver-general, I regret to find that you have persisted in keeping the manuscript account for the year ended 29th September 1853, after being repeatedly applied to by him, or, by his desire, to return it to the office, and that your plea for retaining it has been for 'reasons of check.' You could, however, always have the opportunity of examining all the accounts together at the duchy office, their proper place of deposit." Upon that I remark, the patent granted to me in the name of the Queen vests in me, as auditor, the power to call on all parties liable to account, to render their accounts to me without reference to time or place. Nor has the account of the receiver-general any title to a place in the office until it is admitted by the auditor, before which it is merely a piece of paper tendered by the receiver-general in discharge of his liability, and upon the auditor's acceptance or rejection of the evidence therein contained, depends the title of such documents to be admitted on the duchy records. The patent appointing the auditor is in the name of the Queen, and gives him an independent charge to perform certain duties to the best of his ability, without making him liable to the pleasure of any other dignitary of the duchy. Lord Harrowby, however, here adopts the view of the receiver (whom it is the duty of the auditor to check), as to the degree or nature of precaution which the auditor should exercise in checking his (the receiver's) accounts, which is tantamount to the Chancellor superseding the authority of the Sovereign by whom the charge was given to the auditor. His Lordship, moreover, expresses his regret that for reasons of check, I should have retained the account, and censures that proceeding on my part. The letter continues, "And I cannot but concur with the receiver-general in opinion that these accounts with the vouchers should not be taken out of the office." Upon that I observe, when I was appointed it was specially stated to me by Sir Charles Trevelyan and Mr. Strutt, that the work was such as could be done by me at my own house. The clerk of the council raised the question to Mr. Strutt, whether he (the clerk of the council) would, by the oath he had taken, be allowed to let the papers go from the office; and after consulting, he admitted, that as I was an officer of the duchy, there could be no objection. Mr. Strutt, therefore, said I could have the accounts at home. It is on other grounds (those of inconvenience) that I cannot have all the documents I require to audit the accounts at my house. It should also be borne in mind that the auditor's is an office of record. The letter goes on to say, "By your not complying with the receiver-general's request delay has arisen in preparing the annual accounts for the Treasury." I remark upon that: This is again an admission that the receiver general either cannot, or will not render an account of the sums for which he is accountable, in consequence of transactions

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in the year ending on 29th September 1854, unless he arranges that account by the one previously rendered by him to 29th September 1853. The account for the year, from 30th September 1851 to 29th September 1852, were kept open until the month of May 1854, to offer an opportunity to Earl Granville to pay his arrears of rent, at which date only those accounts were passed by the late auditor, being one year and eight months after their date. In the present instance there has been a lapse of seven months only, nor were the rents which have been brought to account collected until the third month of the seven alluded to. A new reason seems, therefore, to have been sought for, an habitual delay having its origin in another cause. Although the statement of delay having occurred in rendering an account of money received and paid during a period, because the party had not in his possession a record of his cash transactions for a previous period, is, on the face of it, inconsistent, yet it is a clear admission that the cash accounts are not in the intelligible state in which they should be; and such an argument as that put forward by the receiver (and now adopted by Lord Harrowby) has been of itself a sufficient reason for the auditor wishing to retain the prior account in his possession, to prevent the possibility of the balance of a subsequent one being fitted to it. To prevent this interconnexion between the cash accounts of different dates, and my having met with knife erasures in the accounts, have, I conceive, warranted me as auditor in taking every precaution in my power, or which foresight could suggest, to check these transactions. Lord Harrowby, after stating that he has made himself acquainted with the subject, says, "By your not complying with the receiver-general's request, delay has arisen in preparing the annual account for the Treasury;" and upon these grounds proceeds to assume the power of writing me the present letter of dismissal, dated 4th May 1855. The allegation by Lord Harrowby, as a reason for the accounts to 29th September 1854, not then (4th May 1855) having been rendered, has subsequently been proved to have been totally void of truth, by a statement, on 13 July 1855, in the handwriting of the deputy of the receiver-general, who is the party by whom the accounts are made out. By his statement here alluded to (a copy of which will be found inserted in its date amongst the present papers), it is shown that the account to 29th September 1854, was closed on 22 February 1855. This circumstance, taken in conjunction with Lord Granville's omission of any notice of my letters respecting the accounts not having been rendered to me, bears out the subsequent statement made *vivâ voce* by the same party on the 16th May 1855, in the presence of the Earl of Harrowby (*see* copy of letter to Mr. John Abel Smith on same day), namely, that the reason for the account above alluded to not having, even then, been rendered to me, was an order from Lord Granville that it should not be furnished to me. As by my letters to the clerk of the council, dated 21 December 1854, and to Lord Granville on 22d January, and the 6th and 16th March 1855, I called the attention of his Lordship (who was then the Chancellor of the duchy) to the fact that the receiver-general's account for 1854 had not been rendered to me, to which as above stated no attention was paid by his Lordship; as, by my letters of the 15th and 19th February, I referred to Mr. Thomas Flower Ellis, the attorney-general of the duchy, to know what were my legal powers as auditor, and what course I could pursue to obtain accounts from the accountants, who might either neglect or refuse to render them; in reply to which inquiries this gentleman (who was one of the council of which Lord Granville and the receiver-general, who would not render his account, were also members), by his letters of 17th and 21st February, gave evasive answers referring me to the Council; as on Lord Harrowby succeeding Lord Granville in the Chancellorship of the duchy, I also drew his Lordship's attention by my letter of 18th April 1855 to the accounts not having been produced for the year 1854, in reply to which (instead of obliging the receiver to deliver the account which had been closed on 22d February), his Lordship first alleged that the account had not been made out; secondly, that I was the cause of delay, and thirdly, on these assumed grounds proceeded to write me the annexed letter of dismissal, the unavoidable conclusion is that his Lordship was either totally ignorant of the subject with which he was dealing (although he professed to have read all the correspondence and made himself acquainted with the matter), or that he was privately co-operating with Lord Granville, by attempting to displace me under a false pretext, so as

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to prevent my inquiring into the large arrears of rent which for some years had been due from Lord Granville to the Queen, in right of Her Duchy of Lancaster, at the same time as he, Lord Harrowby, was trying to appoint the nephew of the receiver-general to audit the accounts. This latter fact is proved by his Lordship's letter of 9 May 1855, to Mr. John Abel Smith, showing (after having sided with General Fox, the receiver-general who had threatened to get me displaced), that he intended to appoint a gentleman from the Audit Office, from which department his Lordship ultimately selected General Fox's nephew, Mr. Alfred Hawker; then the letter proceeds, "In your letter of 18 April, you refer to the subject of one of the observations made on the draft instructions sent to you by my predecessor, in which observations you stated, that after the receiver-general's account for 1852 had been audited, &c., it was found to be incorrect by an omission of 50 *l.* 'for which credit had actually been taken and the sum not accounted for.' This is not very intelligible, but I find that the account for 1852 had not been audited when the error was discovered, and that moreover the money, though by mistake omitted in the account, was in the hands of the duchy bankers, whence it could not be drawn out without an order of court." Upon this I observe, this statement would lead to the conclusion, that the auditor could go to the bank and satisfy himself that the funds belonging to the duchy which should be there were actually there. I went to Messrs. Coutts's bank, where the receiver-general keeps his account of the sums received by him for the duchy, and I was refused any information, unless I brought an order from the individual in whose name the account was kept. Having since represented to Lord Harrowby, that, as auditor, I should have the power of personally making inquiry at the bank respecting the state of the accounts of the duchy funds there, his Lordship has positively refused to allow me to exercise this privilege of my office, and has stated that it is "inexpedient, unnecessary and unusual, that the auditor should put himself in communication with the bankers." In this instance, his Lordship has again set up his authority in opposition to that of the Queen, by whose letters patent I am authorised to call on all receivers of the duchy to account to me, and they are commanded to do so. For refusal alluded to, see letter from Mr. Danvers, the clerk of the council, dated 6 June 1855; the letter then goes on: "I also find that the late auditor made a memorandum in the margin of the draft of the account, in order that the error might be corrected in the succeeding one." Upon this I remark, no memorandum of the kind existed on the account of 1852 audited by my predecessor, and produced to me in the book of the duchy where the yearly declaration to the account is made. The draft of the account alluded to was never shown to me, and it was by the entry in the subsequent year's account, correcting the error, that I first perceived it. The fact of the case, however is, that the receiver-general took credit in his account for a larger sum than he should have done (or than had been paid into the bank), the effect of which was to reduce the charge against him for the cash he was liable to produce. See precise memorandum of the circumstance in note, 13 June 1855, on further examination of the receiver-general's account for 1853. The letter then proceeds: "With regard to your remarks on the incidental account rendered by the clerk of the council, I find that my immediate predecessor, the late Chancellor of the duchy had come to a decision respecting most of your suggestions. He did not object to the sums being in future brought to account in the order of payment, according to your recommendation, though as the account showed the period within which the payments are made, it had been considered advisable that payments of a similar nature should appear as near as might be together in the same part of the account, a classification which could not be adopted if dates had been more particularly observed. On weighing the subject, however, the preponderance seemed to be in favour of the regular observance of dates, and the incidental accounts will in future be so made out." I observe upon this passage, as the classification of an account consists in collecting together, under separate heads, items which have analogy to each other, or are governed by the same regulations for their collection or expenditure, the classification alluded to by Lord Harrowby is visionary; 1st, because there has been no subdivision of the "incidental account," under different heads; 2dly, because the items which have analogy to each other, are not lumped together for either debit or credit to the receiver-general's account, but the whole amount of the incidental account is dealt with as a whole in the yearly

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yearly accounts; and 3dly, because (before I required the authority of the Chancellor and council to be produced to me for all sums paid through the incidental account) many of them had been paid by the clerk of the council during the tenure of office by my predecessors, without any such authority having been obtained for the disbursement of the money. The letter proceeds, "With respect to your assertion that it is a rule of audit, which public accountants of the highest grade are required to submit to, to have signatures to receipts attested by a witness, and that it is enforced by the Audit Office in the examination of the accounts of the office of Woods and Forests, which you follow up with a recommendation that an order be given directing all payments to be made in the presence of a third party, I desire to inform you, that, having ascertained that such attestation would give no additional legal effect to a receipt, I have directed inquiry to be made respecting the practice you have mentioned, and I am informed by the Commissioners for Auditing the Public Accounts that it is not the practice or rule of the Audit Office to require the signature to vouchers or receipts for money to be attested by a witness." Upon this I observe, this statement is quite at variance with the following facts: Having been called upon by Earl Granville to mention upon what authority I had stated the fact alluded to, I enclosed, in my letter of 23d March 1855, to his Lordship, copies of the 341st and 342d articles of the Commissariat Regulations (at page 137 of the Code, dated 1st March 1852) drawn up by the Lords of the Treasury and printed for the guidance of Commissaries General in rendering their accounts to the Commissioners for Auditing Public Accounts, by which every commissariat officer is required (in every case) to obtain the signature of one witness to his payments, and where the party receiving the money from him cannot write his own name, the payment is required to be witnessed by two parties, both of whom must, by their signatures, attest the receipt given by the mark of the recipient before it can be admitted as a voucher. Vouchers of this nature frequently come to the Ordnance from the Commissaries General, and are always witnessed. Nor has this regulation in any way been relaxed, for, subsequently to the circumstances above alluded to, I was informed by Commissary-General Hewetson, who has been constantly employed up to the present time on military and civil duties for the Treasury, that the rule was most punctually adhered to. I may also state, from my own knowledge of the rules and practice of a public department of audit in which I have for 20 years held an appointment, that so rigidly is the rule enforced of requiring all payments to be witnessed, that any vouchers not so witnessed have been rejected in the accounts of Ordnance storekeepers in Great Britain, Ireland, and the Colonies (who rank with field officers in the army), and other receipts, properly witnessed, furnished in lieu of them by such accountants. But besides the above (before making the remark and suggestion on the incidental account of the clerk of the council), I also took the precaution to apply to Mr. Hoffay, junior, of the Audit Office (the son of the present Assistant Paymaster-general, who was in the Audit Office, and was one of Sir Stafford Northcote's Committee to inquire into the business of public offices), and I was informed by him (Mr. Hoffay, junior) that he had been given by his superior in the Audit Office the accounts of the Woods and Forests to examine, and at the same time was told by him to be particular in requiring the signature of a witness to all vouchers for payments. This fact I also mentioned in my letter of 23d March 1855, to Earl Granville, but without stating the name of the party from whom I had got the information. They are remarkable facts: First, that such strenuous efforts should be made to exempt the vouchers for the expenditure of duchy funds from the checks existing in the public service; and, secondly, that in the face of such evidence as that above alluded to, a letter was procured by the duchy officials from Mr. Macaulay, the secretary to the Audit Office, stating that vouchers for payments were not required by the Audit Office to be witnessed. The next paragraph of the letter is, "Among the letters that have been laid before me, I find several from the solicitors of two parties, who have purchased small encroachments made upon the wastes of the manor of Salford and Pendleton, repeating applications for their respective conveyances, the terms for which had been settled by the Chancellor and council, but which conveyances appear to have been withheld from the purchasers in consequence of objections you have made to put your signature to the bills for the grants. With respect to the Salford encroach-

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ment, you made sundry observations in your letter to the late Chancellor of the duchy, dated 8th January 1855. In the answer to that letter those observations were fully replied to, and it was intimated to you, that you had mistaken the object for which the auditor's signature was affixed to the bill, viz., for the purpose of testifying that the bill was in conformity with the minute or order of court, and the duchy being bound in honour to complete the grants which the council had agreed to make, you were requested, after the explanation given to you, to affix your signature to the bill in the usual way." Upon this part of the letter I remark, by my report of 10 March 1855, enclosed to Lord Granville in my letter of the same date; I showed on the evidence of the clerk of the records of the duchy, that the signature of the auditor to bills for grants of duchy lands was not formerly required, and that those bills were signed by the clerk of the council, whose signature did not testify to the bill being in conformity with the order of the court, but to its having been drawn up according to a document called a "Particular," which had emanated from the auditor on his examination of the surveyor's report and valuation before the Chancellor took part in the transaction. In the same report I pointed out to Earl Granville, that by the auditor being required to sign the bills, now that he was excluded from the council or court of the duchy, at which the valuation was examined, the grounds of his duties became shifted, and that by his signing the bills for grants in fee as "auditor," he was thus giving a certificate to a fact that did not exist, namely, that he had examined the surveyor's report and valuation, as his signature to the bill was a substitution for that of the clerk of the council, which had testified that the substance of the bill was in conformity with the auditor's "Particular" of the surveyor's report. The assertion, therefore, by Lord Harrowby, that I was required to sign the bills "in the usual way," is inconsistent with the fact, as the usual way depended on the power and functions of the auditor, as exercised at the council of the duchy, to check the proper valuation of the property before any steps were taken to compromise the interests of Her Majesty, by the Chancellor and council making any engagement to sell the Royal inheritance, which is a perpetual trust for the Sovereign dependent on the distinct functions of various officers (such as the Chancellor, attorney-general, the receiver-general, the surveyor, and the auditor) each receiving his authority to act (not from the Chancellor and council, but) by the King's or Queen's letters patent. The fact, therefore, is, not that I have refused to act up to what has been usual, but that I have hesitated to sign a statement to Her Majesty that the property was sold for the best price which could be obtained for it, without knowing such to be the case; and that I refused to accede to that which was unusual, and sign a deed, as auditor, while I was debarred from exercising the powers which the auditors had always had, and which belonged to my office. Then the letter proceeds: "It appears that you have persevered in retaining and acting upon your own opinion in opposition to the court, fortified by that of the law advisers of the duchy." Upon this I observe, I was never informed that the opinion of the law officers had been taken on the subject of the auditor's signature to bills for grants in fee of the duchy lands. I was told that it was taken on the subject of his signature to leases, and that they did not consider it necessary (the communication alluded to being the letter of the 19th December 1854, from Mr. Danvers). After this, however (as if on second reflection on the matter), it was inserted in the instructions for the auditor's guidance, that he was to sign the leases. And in the inquiry I was at the same time making into the constitutional functions of the auditor, I found that to leases as well as to grants in fee, it was necessary that he should be a party. The letter goes on: "And the purchasers have, with much injustice, been thus deprived of their grants, though they have paid their purchase-money several months since." I remark on this: The purchase-money having been received before I was even made acquainted with the intention of the Chancellor to sell the property, shows that by the perversion of the auditors' duties from those of check, he is now required to give his sanction and approval to that over which he has been deprived of any check or control, by which means he is converted from an independent officer of check into a blind instrument of the Chancellor. The letter goes on: "Under all the circumstances to which I have adverted, and with the opinions you oppose to those of the Chancellor and council, it seems impossible that the business of the duchy can be satisfactorily conducted so long as you hold the office

office of auditor." I remark on that, I have not opposed *my* opinions to those of the Chancellor and council, but have reported the evidence of the clerk of the records of the duchy, and the enactments by Parliament relating to the functions of the auditor, to call the attention of the Chancellor and council to those points which had not been brought, as I conceived, under their consideration when the unconstitutional step was taken of curtailing my powers, and yet requiring me to give the same authenticity to deeds as the previous auditors had done, with the full power of their office in their hands. The letter thus concludes: "I have therefore come to the determination to appoint an auditor in your place, and I have to request that all papers, books, and documents appertaining to the duchy which remain in your possession may be immediately returned to this office." Lord Harrowby says, "I have come to the determination to appoint an auditor in your place;" and he calls on me to give up papers, books and documents appertaining to the duchy. His Lordship appears to have disregarded the fact that the auditor holds his appointment by the Queen's letters patent, whose authority he has under the seals of the duchy to call even upon the sheriffs, barons, mayors and justices to render accounts, &c., to him. The Earl of Harrowby afforded me no opportunity of offering any explanation, but eagerly seized upon a supposed pretext to displace me at the suggestion of General Fox, the accountant, who on a groundless excuse withheld the accounts he should have rendered to me. Upon the whole letter I wish to make the following remarks: By this letter Lord Harrowby assumes that I have put forward in my statement of 10th March 1855, to Lord Granville, opinions of my own; that those opinions are erroneous, and that he has the authority of the law advisers of the duchy for saying so; that upon the erroneous opinions I have thus set up, I have endeavoured to obtain a position which did not appertain to my office (namely, a seat at the council of the duchy); that on these grounds he is justified in displacing me. The facts of the case, however, are as follows: 1st, that by my letter of 10 March 1855 to Earl Granville, I pointed out by reference to statutes, &c., that the council of the duchy (as at present constituted of parties chosen by the Chancellor, and not being entrusted by the Sovereign with any functions in reference to the management of the duchy property), was not a legal council, and that no Act of Parliament had ever recognised the council so constructed, none having been passed respecting the management of the duchy property since such parties had been introduced to form a council, but that, on the contrary, the council of the duchy (such as it existed by law, and when the later Acts were passed confirming the functions of the council), was composed of the Chancellor, the attorney-general, the receiver-general of the duchy, the surveyor, and the auditor, who were appointed by the Sovereign. 2d. That although Lord Harrowby treated my views as erroneous, he and the law officers of the duchy must at the time have entertained a different opinion from that which they expressed, and must have considered my view of the matter correct, because immediately after the letter from the clerk of the council, on the 6th of June, written under the directions of Lord Harrowby, upholding the view of the matter taken in the above letter from his Lordship, Lord Harrowby, on 12th June 1855, introduced a Bill into the House of Lords, and got it hurried through both Houses of Parliament in 14 working nights, ostensibly to give to the council of the duchy the power of buying and selling land, but which virtually had the effect of recognising the council as created by the Chancellor, and of transferring to it the powers which appertained to the council of the officers of the duchy existing when the former Acts of Parliament had been passed. This may be seen by a perusal of the Act of last Session (the 18 & 19 Vict. c. 58), which gives no extra powers to those already possessed to a full extent under the statutes of Geo. 3, relating to the property of the Duchy of Lancaster, and the Acts therein referred to, which had been continually acted upon for such purpose; it is thus clearly shown that Lord Harrowby himself knowingly based a charge against me on erroneous grounds, in order to have a pretext for displacing me, and grasping an unconstitutional power over the property of the Crown by getting an Act of Parliament passed, the effect of which was concealed from the Legislature, and by removing the auditor from the council, and thus preventing his check on the valuation of land, &c., before its disposal. The Act alluded to (18 & 19 Vict. c. 58), was introduced into the House of Commons on the 25th of June, and read

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read a third time on 4th of July 1855, the actual time being only eight working days.

614. Viscount *Goderich.*] You state in the memorandum upon that letter that Lord Harrowby availed himself of the earliest opportunity to dismiss you at the suggestion of General Fox?—Yes; he availed himself of the earliest opportunity to dismiss me, as I conceived, at the suggestion of General Fox; since General Fox said in his letter of the 9th February, that as soon as a Chancellor was appointed, he would bring it under his consideration whether I should not be required to confine myself to the Ordnance duties, in consequence of not being able to attend at the duchy office from ten to four, the office hours being the same at the duchy office as at the Ordnance Office.

615. Have you any more direct proof that Lord Harrowby took that step at the suggestion of General Fox?—No; I have no more direct proof.

616. Mr. *Coningham.*] Do you consider this letter as emanating from Lord Harrowby alone as Chancellor of the duchy, or from Lord Harrowby and the council of the duchy?—I consider it as emanating from Lord Harrowby alone; he makes no mention at all of the council of the duchy, and he speaks in the first person in his letter.

617. Lord Harrowby alleges as one of the grounds of his determination to displace you, that you had prevented the receiver-general from rendering the account for the period, from 30th of September 1853 to the 29th of September 1854; will you produce the proofs in your possession, that so far from this allegation being true, the receiver-general's account for the year, which had ended the 29th of September 1854, had actually been closed on the 22d of February 1855, being upwards of two months prior to the date of his Lordship's letter, and while Lord Granville was Chancellor?—Whilst examining the accounts in the duchy office, on the 13th of July 1855, I wrote the following memorandum upon a piece of paper: "Mr. F. Bertolacci will be obliged to Mr. Gooch if he will state at foot of this paper, the dates on which the receiver-general's accounts, up to the 29th of September 1853 and the 29th of September 1854, were respectively closed, and return it to him by bearer." At the foot of that Mr. Gooch states, "1853, on 18th of February 1854; 1854, on 22d of February 1855."

618. *Chairman.*] What do you mean by the words, "the accounts were closed"?—What I understand by closing an account is, striking a balance, and carrying that balance forward to the next account.

619. Do you understand the closing of the accounts to be the balancing of the accounts of the year and closing them, so far as can be done, prior to the actual audit?—Yes.

620. You do not understand the word "closing" to include an audit of the accounts?—No.

621. But the making up of the accounts by the officers of the duchy?—The making up of the accounts by the officers of the duchy, striking a balance and carrying that to the next year's account, closing one account and opening another.

622. Mr. *Coningham.*] Why was not the account, up to the 29th of September 1854, produced?—After Lord Harrowby had written to me, on the 4th of May 1855, attempting to displace me, some communication took place between Mr. John Abel Smith and Lord Harrowby; and I believe that that communication was in consequence of Mr. John Abel Smith being one of the parties when I was appointed auditor, to whom Mr. Strutt was referred. I believe he and Mr. John Shaw Lefevre were the two gentlemen to whom reference was made, as having more particular knowledge of me individually, beyond the office recommendations. In consequence of communications having taken place between Lord Harrowby and Mr. Smith, I mentioned in a letter to Mr. Smith the result of an interview that I had with Lord Harrowby; and in that letter, which was dated the 16th of May 1855 (being the same day that I met Lord Harrowby at the duchy office), I recorded the fact that I asked Mr. Gooch, the clerk who acts for General Fox, the receiver-general, why the account to the 29th of September 1854, had not been made out and rendered to me. Mr. Gooch looked at Mr. Danvers, and said to him, "You know Lord Granville said it was not to be rendered to Mr. Bertolacci," or some words to that effect. I then turned round to Lord Harrowby, being at his right hand,

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and Mr. Gooch at his left, and Mr. Danvers who was sitting down at the table; and I said to his Lordship twice, "Your Lordship will please to take particular notice of that fact;" and I have no doubt that if Lord Harrowby is spoken to upon the subject, he will recollect my having said so; at least I hope so. I will read the letter which I wrote to Mr. John Abel Smith. It is dated the 16th of May 1855: "My dear Mr. Smith, Lord Harrowby having appointed to-day, at 11 o'clock, to meet me at the duchy, I was there to my time; he came at half past 11, and after his being closeted with the clerk of the council for a quarter of an hour, I was admitted. A great deal of proving and disproving took place, with which I need not trouble you. The drift of the matter was, that they tried to strengthen their own position, such as they had previously taken it up, so as to be able to throw the blame on me for the accounts to 29th September 1854 not being presented to the House of Commons, in consequence of those to September 1853 not having been audited; but in answer to my question, why those for the year ended 29th September 1854, had not been rendered to me as I had requested, so that I might examine them simultaneously with those for 1853, which my predecessor had omitted to audit, the clerk, acting as the deputy of the receiver-general, stated to Lord Harrowby that Lord Granville had desired him not to give me the account for 1854. When he said this, he gave a very significant look at the clerk of the Council, and said to him, 'You know he had a reason for'—and then stopped short, and the clerk of the council at the same time feigning to pay no attention to him. I asked Lord Harrowby to be so kind as to bear in mind what had dropped from the clerk of the duchy, who was the party speaking. You may remember how Sir Charles Trevelyan and Lord Granville played into each other's hands last year, to prevent my having time to audit the accounts, and how the latter tried by this means to put me into a fix, and make me admit that I could not audit the accounts, and even went so far as to write to me, and say that Mr. Monsell, and the chief clerk of my department at the Ordnance, thought I ought to resign one or the other of my appointments, knowing at the same time that the Ordnance gave me 320*l.*, with yearly increase, and that the duchy was a fixed salary of 200*l.* only. Now, it is a remarkable fact, that it is in the cash account for the year 1854, which had to be accounted for, that the two sums of 1,000*l.* and 1,500*l.* were entered as having been paid by Lord Granville. I am so disgusted and harassed with these proceedings, that I feel that half a loaf in peace would be better than a whole one under such circumstances. Yours truly, *F. R. Bertolacci.*"

623. Viscount *Goderich.*] You state in that letter "a great deal of proving and disproving took place, with which I need not trouble you." Will you state what you mean by that expression?—That there was a good deal of talk and argument, which upon such occasions might be supposed to take place.

624. Solely with reference to the not rendering of the account of 1853?—No, not with regard to that; that was a separate question. The conversation was a good deal with regard to the entry of the 50*l.*, about which there was a very long conversation, and I will explain how that was. In the accounts which were laid before me in September 1854, of the amounts to September 1852, which the previous auditor had passed, there was no mention whatsoever made of an error of 50*l.* The account was made out clean, and signed by the auditor. I had mentioned this fact in my correspondence with the Chancellors, and that the accounts had been presented to Parliament with this error in them, which was not known, for I had no evidence before me at that time, that the auditor did know it. I found his signature to an account, clearly entered in a book, without any memorandum upon it; but when I came to the duchy Office on the 16th of May, and this discussion took place then, and then for the first time, the draft of the account was produced with Mr. Lockhart's initials under a memorandum, to show that at the time of the audit, that 50*l.* was actually known to him, and upon that a very long conversation took place. When they produced this draft account, that was the point proved and disproved to which I allude.

625. Mr. *Coningham.*] Lord Harrowby assigns another reason for wishing to displace you from the office of auditor of the duchy, namely, that you had, by your report of the 4th of August 1854, maintained an adverse opinion to that of the Chancellor and law officers of the duchy, with respect to the constitution of its council, and the auditor's right to a seat in the council. Have you any observations to make in reply to this allegation?—I have already stated to the

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Committee, I believe, at great length, the view that I take of the auditor being a member of the council, and the various authorities that I quoted for it were mentioned in some long documents, which I have already put in. I have here a document, dated the 10th of March 1855; it is a document which I sent to Earl Granville, showing the various authorities which I conceived bore upon the subject of a legal nature, substantiating that the auditor was a member of the council, and I believe it to be one of the documents to which Lord Harrowby alluded in his statement. (*The document was delivered in.*)

Vide Appendix.

626. You state that it would appear, that Lord Harrowby believed your opinion to be correct, yet his Lordship alleged it to be wrong, with a view to support the predetermined measure of excluding an officer from the council who legally composed it, and of substituting other parties not holding any office of trust or responsibility in the duchy; will you state what evidence you have in support of that allegation?—I had remarked in the documents which I had laid before the Chancellor, as one of the points to substantiate the fact, that the auditor was a member of the council, that the council, as legislated with, was the council such as it was before the year 1844, when fresh members were introduced, and parties not officers of the duchy. On the 12th of June 1855, after this statement by me, in which I pointed out that the council, as then constituted, had no legal authority, and that no Act of Parliament had been passed legislating with the duchy since that council was established, and, consequently, that the enactment in force had reference to the council as formerly constituted, including the auditor, an Act of Parliament was introduced on the 12th of June, into the House of Lords, by Lord Harrowby, and I was not made aware that anything of the kind was taking place until it was actually presented to the House of Lords; and this Act of Parliament was passed through its various stages, namely, the first reading on the 25th of June, the second reading upon the 28th of June, the Report upon the 29th of June, and the third reading upon the 4th of July; and it ultimately became an Act, intituled, "The 18th and 19th Victoria, Chapter 58;" and that Act was introduced to enable the Chancellor and council for the time being to buy and sell property. Those provisions existed long before, inasmuch as they had been acted upon very frequently; and, therefore, the sole effect of that Act was to meet the difficulty which I had pointed out, that no Act had been passed by the Legislature legislating with the duchy, at the time that the Chancellor and council consisted of members not recognised by an Act of Parliament.

627. Was this Act hurried through the House of Commons very rapidly?—Yes; I mentioned the circumstance of this Act to a Member of Parliament, Mr. Ralph Grey, and when the Bill was read he requested that it might be deferred until more time had transpired to consider it; but from his inadvertently not knowing some alteration which had taken place in the mode of passing Bills more rapidly, and not supposing that it would come on the next night, it was passed the next night instead of being postponed at his request, and he was not in the House at the time.

628. Lord *Harry Vane.*] Will you point out in what way this Act of 1854 altered the constitution of the council?—I do not admit that it altered the constitution of the council, but I had previously stated to the Chancellors that the council as then constituted of parties not holding any office of trust in the council, and with the exclusion of the auditor, was not recognised by any Act of Parliament, or indeed that no Act of Parliament had been passed to legislate upon the duchy whilst the present council existed. The present Act of Parliament, though it does not positively state that the Chancellor and council as now constituted are different from the other, yet makes use of the words, "the Chancellor and council for the time being to contract, agree," &c.; and therefore as this Act was passed whilst the Chancellor and council existed in its present state, it was the first Act after the alteration, by the addition of the members to the council changing the nature of the council.

629. Do you think that that Act in any way alludes to any change in the mode of the constitution of the council?—It is by inference, that is to say, this Act of Parliament is for the Chancellor and council for the time being, and as the Chancellor and council for the time being included the members which had been appointed after the previous Act of Parliament, it consequently gave an authority to that which previously was without an authority.

630. What previous Acts of Parliament do you allude to?—The Acts of Geo. 3.

631. In

631. In what way are those Acts of Geo. 3. affected by this particular Act? —With regard to the council of the duchy the Acts of Geo. 3, legislated for the duchy, and gave certain powers to the Chancellor and council as then constituted, the council being the officers of the duchy as mentioned in the calendars which I produced on the first day of my examination. In 1844 certain additions were made to the council of parties holding no office of trust in the duchy. In my statements upon the constitution of the duchy I pointed out that the council as constituted in 1854 and 1855, previously to the passing of the Act in question, was not a council legally constituted, or at least having those powers which were given by the Acts of Geo. 3, inasmuch as the Acts of Geo. 3 legislated for the Chancellor and council as constituted at the time of the passing of those Acts, that the Act which has now been produced of the 18 & 19 Vict. c. 58, authorizes the Chancellor and council to perform, for the time being, those functions which were previously exercised by the council under the previous Acts, and consequently a recognition is given by that Act to a council which previously was not recognized by any Act of Parliament.

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632. You draw that inference from the words "the council for the time being"?—Yes.

633. *Chairman.*] Do you think that the words "the council for the time being" gives a sanction to those alterations that were made without legislative authority in the year 1844?—I believe it does so by inference, though I believe that if there was any legal point argued, very likely it might be argued that that council was not a legally constituted council, and therefore was not a council.

634. Viscount *Goderich.*] Can you mention to the Committee any Act of Parliament in which what you believe to be the proper legal constitution of the duchy is laid down?—There are the old Acts which I have referred to in the early part of this examination, which were Parliamentary Charters and Acts, which mention what the principal officers are that are necessary for the government of the duchy. Amongst those the auditor is one of the parties named. With such an authority as Lord Coke, I will not enter into more ramification than to say that I ground it upon supposing that he had taken those precautions which were necessary before he published his Institutes. And upon this point I may make the observation, that it was argued to me at the duchy one day, by the clerk of the council, that Coke's Institute was not to be taken as an authority, because the messenger was mentioned in it as one of the court. And, therefore, because the auditor was also mentioned there with the receiver-general and the attorney-general and other gentlemen, it was not to be understood that he had any claim to the same right as the others had to be one of the council because the messenger was mentioned, and that the messenger should be one of the council would be an absurdity. Now, I think that the duties of the messenger and the duties of the auditor are not at all similar in the matter.

635. Are you prepared to state positively that it is your belief that that Act of Parliament confers no additional privileges or rights in respect to the sale of land, or affords no greater conveniences for the sale of land than the officers of the duchy were possessed of under previous Acts of Parliament?—I do not think it does, inasmuch as I was frequently called upon to sign bills for the sale of land, and I do not see anything in that Act which goes into any more detail than the Acts of George the Third.

636. *Chairman.*] Do you then believe that the sole effect of this Act of the 18 & 19 Vict. c. 58, was to give a legislative sanction to the altered constitution of the council as it then existed?—That is the view that I take of the matter, as I had specially pointed out in my remarks upon the constitution of the council that the duchy had not been legislated for with the council as then constituted,

637. And that is your reason for saying that you think that Lord Harrowby really believed your opinion to be correct, whilst he was alleging it to be wrong?—I believe that to be the case.

638. If you should be mistaken in the legal meaning and force of the words "Council for the time being," would not your argument then fall to the ground?—It would depend upon the construction of the Act of Parliament, in a legal point of view, whether or not the Act of Parliament took effect in legalising the council; but still, as far as the effect which the Act would take on my observation, I think it would not altogether have the same effect, because

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my observation was that there had been no Act of Parliament passed whilst that council existed: an Act of Parliament was passed whilst that council existed; and I conceive that that Act of Parliament being passed sanctioned the council as it then existed, but whether it was legal or not I cannot take upon myself to say; it is a matter of law. But I merely observed in my previous remarks that the duchy had not been legislated with whilst that council existed, and thereupon an Act is immediately passed legislating with the duchy with the council as it then existed.

639. Lord *Harry Vane.*] Which Act you think was brought in for the purpose?—Yes.

640. Mr. *Coningham.*] There does not appear to have been any particular necessity for passing an Act of Parliament at that time?—No; I am not aware of any necessity, inasmuch as I was called upon to sign bills, and had signed bills for the sale of duchy property under the Acts as previously existing, and there is nothing in the Preamble of that Act which shows that the Acts previously passed were defective.

641. Did you resist the attempt of Lord Harrowby to displace you by reminding his Lordship that you held the office of auditor by letters patent from the Crown; that you had not been guilty, nor had ever been charged with having been guilty, of any offence or misconduct in your office, and that therefore the legal rights and privileges conferred upon you by appointment under Her Majesty's letters patent had not been abrogated, and that you never vacated your appointment?—That was the purport of my letter of the 9th of May 1855 to Lord Harrowby, in which I stated that I had neither misconducted myself, nor had I been charged with any misconduct, and that consequently there was no right to displace me, and therefore I did not vacate the office, but retained my patent. Perhaps I had better read my letter to Lord Harrowby, of the 9th May 1855; it is as follows: "I have the honour to acknowledge the receipt of your letter of the 4th instant, intimating to me that your Lordship has 'come to the determination to appoint an auditor' in my place. I beg to recall to the recollection of your Lordship that I hold my office by letters patent from the Crown, and that I have not been guilty, and that I am not even charged with having been guilty of any offence or misconduct in my office. It is needless for me to point out to your Lordship the legal rights and privileges which appointments by letters patent confer, nor the only means by which such legal rights and privileges can be abrogated. As your Lordship has not done me the honour of holding any communication with me previous to the intimation that you propose to appoint another auditor in my place, I fear I should displease your Lordship were I to enter into any details in reply to the several circumstances which your Lordship states in your letter of the 4th of May have led your Lordship to the determination which you have announced to me. I may, however, perhaps, be permitted to observe that such circumstances impute to me no offence or misconduct, but simply (even if that accusation be well founded, which, I submit, with great deference, it is not) errors of judgment in requiring more information, in my capacity of auditor, than your Lordship states you consider it necessary for me to have sought to have obtained. I can assure your Lordship that, in asking for a larger amount of information than my predecessors in office may have required before assenting to the alienation of the property of the Crown, and before attesting the accuracy of accounts of a complicated and obscure character, I have been actuated by no desire to impose unnecessary trouble, and that I have been influenced solely by the desire to perform my duty, as auditor of the accounts of the Duchy of Lancaster, conscientiously and efficiently, and in obedience to the terms of the oath which I took upon my acceptance of that office. I am ready to offer to your Lordship, either personally or in writing, any explanation which you may require, as to the manner in which I have hitherto performed my duties, and I am ready to perform them hereafter in such manner as may be agreeable to your Lordship, and which will (I am sure after your Lordship's attention shall have been more fully drawn to the subject) be consistent with due protection to the interests of the property of the Crown and of the department of which your Lordship is the head.

642. You have stated that you did not vacate your office; is not that shown by the fact, that the clerk of the council, on the 18th of May 1855, transmitted

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to you, by desire of the Chancellor of the duchy, a bill for your signature as auditor, to sanction the sale of some duchy property?—Yes.

643. *Chairman.*] Do you consider that your office of auditor has been superseded, or that you have been legally displaced?—No, I do not consider that I have been legally displaced. When Lord Harrowby made an effort, in May 1855, to displace me, and which I resisted, I took the opinion of Messrs Freshfield, the solicitors to the Bank, as to the power that his Lordship had of taking my patent and my appointment from me; and the opinion which I then got was this, that it could not be done without the Sign Manual. Lord Harrowby's letter to me is not by the authority of the Queen; but it states that he (he speaks in the first person) has taken those steps, by which he has superseded my patent; I therefore do not consider that I have been legally displaced.

644. What is the date of your last official communication with the duchy office?—I last went to the duchy office on the 11th August 1855.

645. Have you understood that another person has been appointed to hold the office of auditor?—Lord Harrowby, in his letter of that date, stated that he had taken those steps to supersede my patent, by appointing Mr. Hawker of the Audit Office.

646. Viscount *Goderich.*] You were asked at question 415, "Do the amounts paid to the duchy by Earl Granville correspond with the sums entered in the accounts laid before Parliament as having been received from his Lordship?" to which you replied, "No;" and you subsequently stated in your answer to question 417, that "In the account to Michaelmas 1853, similar sums said to have been paid in were for coals, 2,436*l.* 4*s.* 7*d.*, and for ironstone, 789*l.* 2*s.* 2*d.*, making 3,225*l.* 6*s.* 9*d.*, which corresponds with the amounts put down in the books as the rental. The actual sums paid in, as appears by the books from which I take this memorandum, were altogether 2,192*l.* 11*s.* 7*d.*" Will you look at the account to 1853, and turn to page 11 of that account as laid before Parliament, and state whether, when you gave that answer, you considered the statement made upon that page with regard to the sum of 3,225*l.* 6*s.* 9*d.* as intended to be the amount of rent received from Lord Granville in the course of the year ending Michaelmas 1853?—Yes.

647. Then will you turn to page 3 of those accounts, and you will see that those several accounts are contained in Appendix No. 1, are they not?—Page 3 is the commencement of Appendix No. 1.

648. Then will you look at the general account upon page 2, and state whether Appendix No. 1 does not contain an account, not of the rents paid in that period, but of the rents due to Her Majesty during the year ended Michaelmas 1853?—Yes.

649. That is an account of sums due to Her Majesty during that year; consequently the account which you quoted as showing sums which were asserted to have been actually received from Lord Granville represents, does not it, not the sums received, but the amount of rent due?—Certainly, the amount of this Appendix No. 1 is the total which corresponds with the recapitulation of that amount, and if that is the amount due and not paid, that would appear to be according to the form of this account, certainly the amount falling due.

650. In which case it is correctly stated?—It is correctly brought forward from Appendix No. 1 to the charge of income.

651. If the sum of 3,225*l.* 6*s.* 9*d.* is a statement of the amount of rent due for the year ending Michaelmas 1853, is it a correct statement?—Yes, but I do not see where the surplus between what is due and what is said to have been paid is carried to account.

652. There was no surplus in that particular year; it was a deficit; but did not you make a mistake when you said that the accounts here represented the sums actually paid by Lord Granville, and is it not the case that the sums put down here are the amount of rent due?—Certainly in this case; but if a similar example were taken in the other years, it would be found that in some cases the amount paid was greater, and consequently, I conceive that the amount here put down was the amount that was due and paid.

653. The items in this account fairly represent the things which they profess to represent?—Yes; the sum total of that has been correctly brought forward under the charge of income.

Lunæ, 6° *die Julii*, 1857.

MEMBERS PRESENT.

Mr. Bramston.	Viscount Goderich.
Mr. Coningham.	Mr. J. Hans Hamilton.
Mr. Sotheron Estcourt.	Lord Harry Vane.

T. H. S. SOTHERON ESTCOURT, Esq., in the Chair.

Francis Robert Bertolacci, Esq., called in; and further Examined.

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654. Viscount *Goderich.*] HAVE you considered the subject which was alluded to at the end of the examination on Friday last?—Yes; I find that in preparing my evidence the day before I came to the Committee last time, I was led into an error by seeing that, under the head of income, was included certain sums which, in point of fact, were not received. I wish, therefore, to amend the answers to Questions 415, 416, 417, 418, and 419. In the account for 1851, the amount not paid but due appears to be 2,607 *l.* 16 *s.* 8 *d.*, paid as per books 2,219 *l.* 17 *s.* 0½ *d.*, which would leave arrears upon the amount due in 1851 of 387 *l.* 13 *s.* 0½ *d.* In 1852 due 2,742 *l.* 7 *s.* 2 *d.*, paid 4,000 *l.*, overpaid above rental 1,257 *l.* 7 *s.* 10 *d.* In 1853 due 3,225 *l.* 3 *s.* 9 *d.*, paid 2,192 *l.* 11 *s.* 7 *d.*, leaving an arrear, apparently, upon the year 1853 of 1,132 *l.* 12 *s.* 2 *d.* For 1854 due 4,500 *l.* 18 *s.* 1 *d.*, paid 5,442 *l.* 8 *s.* 5 *d.*, extra payment above rental 942 *l.* 10 *s.* 4 *d.*

655. The Committee are to understand that you do not now intend to state that any misrepresentation appears upon the face of those accounts?—Decidedly. I make no imputation of any misstatement.

655*. Your former answer rather gave the impression that you meant to say that?—Then I wish to remove it.

656. Mr. *Coninghum.*] In your last examination on Friday you referred to a letter which Lord Harrowby wrote to you on the 4th of May 1855, in which he alludes to your correspondence with General Fox; did not General Fox say that, as soon as a new Chancellor should be appointed he would suggest to him that you should confine yourself to your Ordnance duties?—Yes; in the second paragraph of his Lordship's letter of 4th May 1855, he says he has perused my correspondence with the receiver-general; and in the 5th paragraph of the same letter he says that in my correspondence with the receiver-general he finds that I insisted upon keeping the manuscript account for the year ending 29th September 1853, after having been repeatedly applied to by him or by his desire to return it. The letter in which General Fox expressed that desire was dated the 9th of May 1855, and was the same in which he intimated his intention that I should be displaced from the duchy appointment.

657. When did you first meet Lord Harrowby, and what transpired at your first interview with him?—In consequence of my letter of the 9th of May 1855, stating to Lord Harrowby that he had no power to displace me, he wrote appointing an interview the next day at the Ecclesiastical Commission Office. I then explained to him the difficulties I met with in my endeavours to investigate the accounts, and the necessity of their being remodelled on a better system. His Lordship said he would see the clerk of the council that day, and make arrangements to meet me at the duchy office. By a letter which Lord Harrowby wrote on the 15th (by error dated the 14th of May 1855) he appointed the 16th of May for me to meet him at the duchy office to discuss about the accounts.

658. What was the result of that discussion?—The result was, that in the presence of the clerk of the council, and the clerk who acts as deputy to the receiver-general, I showed Lord Harrowby the irregular mode in which the duchy accounts had been kept and passed, and his Lordship desired me to write upon half-margin the questions then raised, in order that he might consider them, and state his decision in writing against each. On the 19th of May 1855, I accordingly transmitted a statement to his Lordship of what had transpired at the interview, in the shape of categorical questions. In answer to these questions the

the clerk of the council sent me a letter, dated the 6th of June 1855, saying that the court had come to a conclusion, on the points which had been alluded to in my statement, which I transmitted to the Chancellor. His letter proceeded to state the decision, but not as Lord Harrowby had decided it should be, so as to place against each question the answer. I have, however, had the questions and the answers to them, copied in juxta-position, with explanatory notes; this is the document, with a copy of the letter which accompanied it, and it is of so much importance respecting the management of the duchy property, and the performance of the auditor's duties therewith, that I now put it in, and I hope the Committee will consent to its being printed in the Appendix. (*The same was delivered in.*) I beg leave to give an instance of a couple of these cases: "Number 5." This is the question: "The system upon which the arrear on an account appears to have been ascertained has been, by comparing the arrears thereon, shown with the arrears appearing on the previous account, and if less than the latter, charging the accountant with the difference. If greater than the latter, giving him credit for the difference, and in a similar manner increasing or lessening the several items of rents in arrear. The accounts by which the process has been worked, have been made out with reference to rents having fallen due on the 29th of September in each year; but as payments made two or three months subsequently to the 29th of September in each year have been included in the accounts made up to that date, without any day to correspond in each year having been fixed for striking the balance against the accountant of the sums received and paid by him, what means am I to take to ascertain, first, that arrears actually do exist; secondly, that arrears which have been paid between the period at which the accounts have been rendered have been brought to the credit of the duchy, so soon as such arrears have been discharged by the tenant, &c.?"

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Vide Appendix.

659. *Chairman.*] By whom was the answer, which you are about to read, made or suggested?—It is made in the statement transmitted to me by the clerk of the council, by the authority of the court; and this is another instance where the court and council are used synonymously; the answer is as follows: "That, with respect to your inquiry as to the existence of arrears up to a certain period of the year, it having been arranged by the Chancellor that a fixed day, say the 21st of December in each year, should be settled for striking the balance of the receiver-general's account, it is unnecessary to go into the question; but with respect to your inquiry as to the mode of ascertaining that the arrears paid between the periods at which the accounts have been rendered have been brought to the credit of the duchy as soon as the arrears have been discharged by the tenant, it is for you to satisfy yourself, by the means ordinarily adopted by any auditor of accounts, that such arrears have been duly brought to account." The remark I wish to make against that is this: on no fixed day has the accountable party hitherto made up his account, and if the 21st of December has been fixed by the Chancellor as the day for closing the yearly accounts, his decision must have been made since the date of my question. But this is no answer to my question. This is the system alluded to by Mr. Stephenson, as that by which considerable defalcations had occurred in the case which came under his notice at the Treasury. Supposing the date upon which the accountant made up his account for the 29th of September 1852 was on the 1st of November 1852, and that on the 2d of November 1852 a sum was paid, how is the auditor to know anything of the payment until the next year? and supposing that the account for 29th September 1853 be made up on the 30th of October 1853, so as not to bring to account the payment which should be made in November 1853, then, by a comparison of the two accounts, to ascertain the arrear on the latter, the comparison would be made with a larger sum in the former than that which was in arrear at the intervening period, the effect of this mode of account and examination would be to leave, unaccounted for, in the hands of the accountant for a whole year the rent paid to him on the 2d November 1852, and to repeat the process the following year. Another instance which I wish to bring under the notice of the Committee, is No. 7 of the questions: "The yearly statement of account of the receiver-general which has been transmitted to the auditor, has not, speaking from memory, as the accounts are not before me, shown the dates on which the deputy receiver had received the sums collected by him, nor the channels, nor the date of the transmission of the amounts to the bank; is the auditor at liberty to require from the bankers such information in order to check

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the amounts which may be in the hands of the receiver-general or of his deputies?" The answer to that is, "That the auditor should have access as heretofore, to the bankers' pass-book, which exhibits the amounts and dates of sums received and paid by the bankers, but that it is inexpedient and unnecessary, as well as unusual, that the auditor should put himself in correspondence with the bankers in the way named." My note against that is this: There are duplicate pass-books of Messrs. Coutts's bank at the duchy office; if the auditor is not at liberty to test the balance by communicating with the bankers, he is without the means of testing the fact that the pass-book is genuine.

660. Mr. *Coningham.*] In your letter to Lord Harrowby, which you last put in, you allude to the interview you had with him on the 16th of May 1855, and to the account which should have been furnished to you for the year ending the 30th of September 1854; but until you committed your request to paper, was not that account withheld from you by Lord Harrowby's desire?—Yes; in my verbal communication on the 16th of May 1855, I urged his Lordship to desire that the account to the 29th September 1854 should no longer be withheld from me, but he said I was first to examine the account for the year 1853, although I stated that I wished to investigate that account which my predecessor had left unexamined, and which had been presented to Parliament simultaneously with the account for 1854, so as to trace the same items of receipt and expenditure which it would be necessary to compare, in the different accounts for 1852, 1853, and 1854, with the cash account which had been rendered to me. By this means, I told his Lordship, I should also avoid the loss of time, by obviating the necessity of repeating my references a second time to the authorities and to the back accounts. His Lordship, however, refused to order the account to be produced to me when I made this request verbally. But on my applying to him by letter, on the 19th of May 1855, to consent to give an order that the accounts should no longer be withheld from me, his Lordship, in his letter of the 24th of May, said I might have access to the accounts I had named, which were those which ought to have been laid before Parliament in 1853. In proof of these facts, I beg leave to refer the Committee to my letter to Lord Harrowby of the 19th of May 1855, which I have laid before them; also to his Lordship's reply, which I now put in: "Sir, An answer will be furnished to you in the course of two or three days to the various queries submitted in your letter of the 19th instant. You will have access to the accounts of the several years you specify at the office, so as to be able to compare them at once; meanwhile the minor accounts of the duchy are waiting for examination, and this process depends on the answers to your questions. It is therefore necessary it should be undertaken without delay; Monday and Tuesday next the office will be closed. (signed) *Harrowby.*" I moreover refer to a memorandum of the 4th of June 1855, which I made at the heading of the account to the 29th of September 1854, and to a counter-memorandum by Mr. Gooch on the same account, dated the 5th of June 1855; copies of which memoranda I now beg leave to put in, in the hopes that they may be printed in the Appendix. I recorded upon this date that, on the 4th of June 1855, the account for the first time was exhibited to me of 1854, and Mr. Gooch makes another remark to show that I might have had it when I met Lord Harrowby.

661. Were the replies made to the questions arising out of your conversation with Lord Harrowby explicit?—No, a perusal of the questions and answers to the questions, and my explanatory notes placed in juxta-position to each question and answer, will show that, except in cases where the answer, or rather orders, tended to restrain the auditor's check, the reply was indefinite and evasive, thus throwing on me the responsibility of checking, with restricted and inadequate powers, accounts and proceedings which were conducted on such a system as tended to frustrate inquiry and check.

662. Did you make any representation to Lord Harrowby on this subject, of the necessity of having the payments by the accountant of the duchy witnessed?—Yes, as it had been stated by the authorities of the duchy, that it was unnecessary that those payments should be witnessed, I asked what evidence I was to require as to the signatures being genuine; and the answer to that was, that the laws relating to forgery were the protection; my note upon that would be, that I did not ask what would be the remedy, but what would be the mode of preventing it.

663. Are not Messrs. Coutts, the bankers, with whom General Fox both deposits

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deposits the funds of the duchy, and also deputy-receivers to General Fox of sums payable to the duchy?—Yes; Mr. Gooch in his letter to me, of the 24th of January 1855, transmitting the cash account which I had asked for, said: "With reference to your letters to Mr. Danvers of the 21st and 27th ultimo, I now beg to enclose herewith 'An account of sums received and paid by Messrs. Coutts & Co. as bankers and deputies to the receiver-general of the Duchy of Lancaster, from 30th of September 1853 to 29th of September 1854, both days inclusive,' in the form prescribed by yourself, and also a similar account of receipts and payments by myself as deputy to the receiver-general. (signed) *Joseph H. Gooch.*"

664. You still hold the Queen's letters patent granting you the office of auditor of the Duchy of Lancaster; will you read the patent?—"Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, To all to whom these Our present letters shall come, greeting: Know ye that We, for divers good causes and considerations Us hereunto moving, and of Our especial grace, certain knowledge and mere motion, and by and with the advice and consent of Our Chancellor and Council of our Duchy of Lancaster, do give and grant unto Our trusty and well-beloved Francis Robert Bertolacci, Esq., the office of auditor of the accounts of all and singular receivers, sheriffs, collectors, bailiffs, prepositors, and farmers, and of all other officers, occupiers, and ministers of Us, Our heirs and successors, accountable of and in respect of all and singular honours, castles, lordships, manors, lands, tenements, rents, and services, and of and in respect of all other possessions and hereditaments whatsoever, now belonging to or being parcel of, or which may hereafter belong to or be parcel of our said Duchy of Lancaster, as well in England as in Wales: And, moreover, of Our especial grace, certain knowledge, and mere motion, We have given and granted, and by these presents for Us, Our heirs and successors do give and grant unto the before-named Francis Robert Bertolacci, for the exercise and occupation of the said office, the clear yearly salary of Two hundred pounds of lawful money of Great Britain, to be paid at the hands of our receiver-general of Our said Duchy of Lancaster out of the rents and revenues of Our said duchy, at the feasts of the Nativity of St. John the Baptist, St. Michael the Archangel, the Birth of Our Lord Christ, and the Annunciation of the Blessed Virgin Mary, by equal portions, the same to be accounted due *pro ratâ* by the day from the commencement hereof, to the day of the demise of the said Francis Robert Bertolacci, or of his surrender, forfeiture, or other sooner determination of his interest in the said office and premises, and his ceasing to hold the same. The said yearly salary to be in lieu of all salaries, fees, wages, rewards, diets, profits, commodities, and emoluments whatsoever, at any time heretofore receivable or received by any auditor or auditors of our said duchy, for the exercise or occupation of the said office and premises, or any part thereof (which said office, by letters patent under the seals of the duchy and county palatine of Lancaster, bearing date the fifteenth day of April one thousand eight hundred and forty-three, was given and granted unto John Gibson Lockhart, Esquire, during our pleasure; and the said John Gibson Lockhart having resigned the said office, We have determined and do determine the said recited letters patent to him thereof made as aforesaid), To have, hold, enjoy, exercise, and occupy the said office, with the said salary of Two hundred pounds per annum unto him, the said Francis Robert Bertolacci, to be executed by himself, or his sufficient deputy or deputies, for whom he will be answerable during Our pleasure, giving and by these presents granting unto the said Francis Robert Bertolacci, his deputy or deputies, during his continuance in the said office, full power and authority, all and singular the accounts of and in respect of all and singular the premises, to audit, hear and determine, and to make, execute, and exercise all and singular the things which the nature of the account in itself shall exact, and in that part require, according to the tenor of these our letters patent: We command also by the tenor of these presents all and singular the sheriffs, barons, mayors, justices, constables, bailiffs, receivers, farmers, prepositors, and ministers whomsoever interested in this behalf, that unto the said Francis Robert Bertolacci and his deputy or deputies, in the execution of the aforesaid office according to the tenor of these presents, they be in all things attending, observing, aiding and advising as it becometh them. In witness whereof We have caused these Our letters to be made patent. Given at Our palace of Westminster, as well under the seal of Our said Duchy of Lancaster, as under the seal of Our county palatine of Lancaster, the fifteenth day of May, in

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the seventeenth year of our reign, and in the year of our Lord one thousand eight hundred and fifty-four. Inrolled in the auditor's book of enrollments the eighteenth day of May one thousand eight hundred and fifty-four. *Frederick Dawes Danvers*, Keeper of the Records of the Duchy. (County Palatine of Lancaster Seal.) *Danvers.* (Duchy Seal.)"

665. Is there any reason why General Fox, or his deputies, Messrs. Coutts, or Mr. Gooch, should not obey the command of the Queen in that patent, and produce to you their accounts of the sums received by them for the Duchy of Lancaster?—I know of no reason whatsoever, and indeed by the Acts of Parliament of the reigns of 1st Henry 4th, 14th of October 1399; 2d Henry 5th, 19th of November 1414; and 1st Edward 4th, 14th November 1461, the receiver-general is made accountable to the auditor of the Duchy of Lancaster.

666. *Chairman.*] Do you wish the Committee to understand, that it is your opinion that the terms of that patent were contravened when the bankers, acting as deputies of the receiver-general, refused to you the information that you required from them?—Yes.

667. Mr. *Coningham.*] You state at paragraph 139 of your petition that you called at Messrs. Coutts's bank to ascertain that a certain payment had been made for the purchase of some duchy property for which you were required to sign a bill; will you state the circumstances connected with that transaction?—On the 15th of July 1854, I received a letter from Mr. Danvers, in which he says, "I beg leave to enclose two bills of grants in fee, as directed by the minute of the 11th instant, which you will recollect my showing to you on Thursday." On the 15th I went to Mr. Danvers at the duchy office, and he exhibited to me the bankers' pass-book, in which were entered the sums paid for one of those properties, but not for the other; the sum for which he showed me the entry was 663*l.* 10*s.*, but the sum payable for the other property, which was 850*l.*, he did not show me in the bankers' pass-book. As the bill which was brought before me stated that the sums had been received, I asked Mr. Danvers for an explanation, and the explanation he gave me was that not in every case was the sum paid first; that the bill was drawn so as to meet the facts of the case as they would be when the grant was completed. I consequently took a memorandum of that fact so as to serve me when I audited the accounts. The following morning Mr. Danvers came to me at the Ordnance Office with a banker's pass-book, and said that he had been mistaken; that in showing me the amount which had been paid in, he had omitted to show me the sum of 850*l.* which was paid in by the St. Helen's Railway Company. It struck me then that the writing in one of the books produced to me on the second day differed from that which was produced to me on the first day, and I took a private memorandum of that fact. It was not till after that, in the month of September 1854, when I was examining the receiver-general's account, that I ascertained that there were two bankers' pass-books, both of which had been furnished to the office. It was in consequence of this (which, of course, I kept secret to myself, because it was one of those things which an auditor, I felt, should exercise his judgment upon without making public) that I went to the bankers' on the 18th of July, to ascertain whether the sum of 850*l.* was actually paid in. On addressing myself to the clerk behind the counter he said that the partners had gone, but he went into an inner room and spoke to one of the principal clerks, who came to me and asked me what my name was; I told him that I was Mr. Bertolacci, the auditor of the Duchy of Lancaster, which he seemed to recognise. He then asked me in whose name the account was kept; I told him it was kept in the name of General Fox, the receiver-general of the Duchy of Lancaster. His reply was, "We will not give you any information; you must go and get an order from the party in whose name the account is kept."

668. *Chairman.*] Is it not the invariable rule with all bankers to refuse to any party a knowledge of what relates to the accounts of another party, without an authority in writing from that person?—As far as private bankers go; but as they seemed to acknowledge, and knew I was the auditor of the Duchy of Lancaster, I conceive it was different; I conceive, under those circumstances, the rights I had by patent gave me the power to call upon them, without asking for the authority of the party whom I was checking.

669. Mr. *Coningham.*] Were you prevented from ascertaining the facts you have alluded to, beyond taking for granted that the entries in the pass-book presented

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to you by the persons whom you had to check were correct?—Yes; I was prevented by the answer to the 7th question, which was drawn up by Lord Harrowby's desire on the 19th of May 1855, from making any such inquiries. I thought it necessary to make this application, to the bankers in consequence of frauds having come to my knowledge; I do not allude to any fraud in the duchy, but circumstances unconnected with the duchy; which I considered, in the position I held, of an auditor, warranted my taking every precaution.

670. Does your experience bear out the statement in Mr. Danvers's letter, that it is unusual as well as inexpedient for an auditor to communicate with a banker?—Quite the contrary. When I went to Ireland, to investigate the accounts of the Irish Reproductive Loan Fund in 1847, which was then a corporate body in London, called the Governors of the Court, partly composed of bankers in the City and partly of Treasury officials nominated by the Government, I received a letter from the chairman, Mr. John Abel Smith, which I delivered to Messrs. Latouche's bank in Dublin, and I was made acquainted with every receipt and draft upon that bank on account of the fund. After the Act of 11th & 12th Victoria, chapter 115, was passed in 1848, to vest that sum solely in the Treasury, I was appointed to carry that Act into effect, and to proceed to Ireland to examine the accounts of the county trustees, who kept their accounts at the savings banks. On this occasion I was placed in communication with the Bank of Ireland; with Mr. Murray, the manager of the Provincial Bank in Dublin; and I was also placed in communication with the savings banks in the various districts; and so far from the practice having been unnecessary, it afforded me an opportunity of saving 200*l.* out of the Killarney, and 5,000*l.* out of the Tralee savings banks, which had been deposited there by the trustees over whom I was the auditor.

671. *Chairman.*] In the instance you now quote, did you not receive an authority from the Chairman to obtain from the bank the information which you desired?—Yes.

672. Can you look upon this as an instance to show that you had an authority to go to Messrs. Coutts's bank to ask to see an account of a person who kept his account there without any such authority?—No; I give that as an instance that it is not unusual for an auditor to place himself in communication with a banker in the way named, which were the terms of the answer to my question.

673. Do you mean to say that it is a usual thing for a person to put himself in communication with a banker without a letter of authority?—No, not without a letter of authority; but my question, which was placed before Lord Harrowby, was in consequence of the refusal of the bankers to allow me to have the information; and it was upon that application that a refusal was made, upon the grounds that it was inexpedient, unusual, and unnecessary.

674. Lord *Harry Vane.*] By Lord Harrowby?—Yes; or, at least, by the court over which Lord Harrowby presided, he being the Chancellor.

675. Mr. *Coningham.*] Was the cash account, which, after some delay, you obtained on the 24th of January 1855 from the deputy receiver, with which you intended to check the receiver-general's accounts of 1853 and 1854 amongst those which Lord Harrowby compelled you to return to the clerk of the council? Yes; his Lordship desired me, by his letter of the 4th of May 1855, to return all the accounts which I had in my possession to the clerk of the council at the same time as the account for 1853 was withheld from me. After this, when I succeeded, in June 1855, in getting Lord Harrowby to assent to the account for 1854 being rendered to me, the clerk acting as deputy to the receiver-general said he could not find the cash account for the same period which had been returned, by Lord Harrowby's desire, to the office, that Lord Harrowby had had it, and that he supposed it was in Lord Harrowby's possession. I therefore wrote to Lord Harrowby upon the 11th of June 1855, to ask his Lordship for it, and, having received no reply, I wrote again upon the 18th of June for the same document, when his Lordship said he could not tax his memory with having received it, but if it was found it would be delivered to me. It was not until the 9th of July 1855 that it was produced to me, when the deputy of the receiver-general came into the room where I was sitting, and throwing down a bundle of papers upon my desk before me, said, "There is the account you wanted; it was found behind some papers of Mr. Danvers."

676. *Chairman.*] What was the date of that cash account?—From the 30th of September 1853 to the 29th of September 1854, which, in consequence of the

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system by which the accounts were kept, had reference to three years' accounts, namely, 1853, 1854, and 1855.

677. Mr. *Coningham.*] On the 15th of June 1855, did you not receive a letter from the Parliamentary Paper Clerk at the Treasury, stating that a question would be put in the House of Commons that night to the Government, whether it were true that you had been dismissed from the auditorship of the Duchy of Lancaster; and also stating that Mr. Wilson was aware that you had not been dismissed, and wishing to know when the accounts would be ready to be laid on the table of the House?—Yes, and in reply to Mr. Stronge's note, I, on the same day, wrote, stating that I was daily engaged after the hour of four o'clock in auditing the accounts of the Duchy of Lancaster; that those accounts required to be investigated with great care, as the nature of those accounts entailed a much greater expenditure of time and labour than could have been supposed from the extent of them, as shown upon the returns to Parliament; and, therefore, it was quite impossible for me to state on what day they might be completed.

678. In the 151st paragraph of your petition you state that Mr. Monsell, the head of the Ordnance Department, in concert with Earl Granville, the Chancellor of the duchy, and Sir Charles Trevelyan, the Secretary of the Treasury, refused to let you have the time which had been promised to you; did you proceed to apply to obtain the usual leave of absence?—Yes; I wrote a letter on the 15th of June to Mr. Monsell, the head of the Ordnance, which, according to the rules of the department, I enclosed to Mr. Smith, the chief clerk. In the letter to Mr. Monsell I stated, that my object in applying for leave was to audit the accounts of the Duchy of Lancaster. The result of that was this: that, prior to that, the practice in the department had been to grant yearly a leave of absence of a month to the gentlemen of the office, irrespective of any extra days they might have had during the year. A short time before this application Mr. Monsell issued an order, that instead of the four weeks and the extra days which gentlemen might have had, they should have six weeks during the year, to include those extra days. On my making application some delay occurred, which arose, as Mr. Smith, his chief clerk, told me, from his not having had time to speak to Mr. Monsell upon the subject; but on several occasions I saw him going in and out of Mr. Monsell's room. At last Mr. Smith came to Mr. Martiny, the head of my branch; and, putting my application into his hands, said, "I wish you would confer with Mr. Bertolacci upon this subject." Mr. Martiny came to me and told me what had occurred, observing, that he did not know what to say about it; that he had stated that the work of the department was no objection to my having the leave, and seemed very much puzzled that such a delay should occur. I told him just to repeat what I had stated in my application, that I wished for the leave of absence for the purpose of auditing the duchy accounts. Mr. Mitchell, the principal clerk of the department, subsequently came to my room, and said that four weeks had been granted by Mr. Monsell instead of the six weeks; but within half an hour from that time he came up again, and said that Mr. Monsell had countermanded his order, and that he had reduced it to three weeks, and that from the three weeks were to be deducted the days of leave of absence that the gentlemen might have been absent. The result of that was this: that, having been absent 12 days, instead of the 12 days being deducted from six weeks, that is, from the 36 days, it was deducted from the 18 working days, leaving me only six days, either for recreation, for auditing the duchy accounts, or any other purpose I might require. These transactions had taken place from the 18th to the 21st of June.

679. *Chairman.*] Was the amount of leave so reduced, namely, 18 working days, minus 12 days, leaving a balance of six days, the total amount of leave which you obtained at that period?—Yes.

680. Viscount *Goderich.*] You state that Mr. Monsell made alterations from time to time in the period of leave which he granted to you; were those alterations made solely in reference to the leave you had asked for yourself, or were they alterations which affected all other persons at the same time in the office?—They affected everybody else after they had been made; but they were made first in my case, and the points I have alluded to were upon the application that I made for the leave of absence.

681. But still the alterations were of a general character, as far as they affected persons applying after they were made?—Subsequently to their being made they were of a general character.

682. *Chairman.*]

682. *Chairman.*] Can you give any explanation of Mr. Mitchell having first of all told you that you were to have four weeks, and afterwards coming into the room and saying that Mr. Monsell had reduced it to three weeks?—I can give no explanation at all; it arose solely from Mr. Monsell's own pleasure.

683. Viscount *Goderich.*] Was there a great pressure of business in the office at that time?—The pressure of business had not reached the department to which I was attached, because the department to which I was attached was that of examining the disbursements and accounts for some periods after the disbursements were made, and it was only at the commencement of the pressure of the war; and therefore, though in other branches the pressure was immediate, where payments were made directly to contractors, yet in the branch I was attached to, it being merely the audit of accounts of accountants who had not yet rendered their accounts, the pressure was not so great.

684. Lord *Harry Vane.*] Was not it a period of war, which consequently rendered leave of absence to be less readily given to those in the office?—Decidedly.

685. Do you not imagine that that was the cause of the reduction of the leave at that period?—I can only say it did not take place until my case, and that was one of the extra causes of my meeting with difficulties in the examination of those accounts.

686. Have you not been understood to say that this principle of the reduction of leave adopted by Mr. Monsell was of general application?—It was made general after it was applied in my case.

687. Mr. *Coningham.*] You were afterwards transferred from that branch to another department, were you not?—Yes; at least to another branch of the same department. When I found that my leave was reduced to only a week, I applied that week to the duchy accounts; and subsequently I attended late in the evening, that is to say, immediately upon leaving my office at four o'clock I went to the duchy office until six and seven o'clock, and sometimes eight o'clock at night. Simultaneously with these proceedings Mr. Mitchell, who was then acting immediately under Mr. Monsell's directions, Mr. Smith the chief clerk being absent, took me from the branch of the department to which I belonged, and to which I have already alluded, and transferred me to a branch of the office which was called the registry branch, through which all the papers had to pass and be distributed through the office for the general work of the departments. At this time, there being changes in the office, there was considerable extra work thrown upon that particular branch to which I was transferred; and, as it required a particular knowledge of those changes which had taken place during the many years of absence from my department whilst I was engaged at the Treasury, I had not that peculiar knowledge which enabled me to dispose of the business so readily as those who had been at it for several years, and who were removed from it. The result of it was, that I was obliged to attend much later than in the branch to which I really belonged, and I was there frequently, instead of till four o'clock, until six o'clock, taking from me the two hours a day that I had been applying to the duchy accounts. This went on until the 25th of July, when Lord Harrowby wrote to me to ask me what progress I was making in the accounts; and upon the 26th of July I answered his Lordship's letter, giving him the information for which he asked. Following these proceedings, on the 11th of August, when Lord Harrowby wrote to me to tell me that he had put somebody else in my place to audit the accounts, I was told to return to my ordinary duties in the room to which I had been previously attached, and to which I belonged. I received Lord Harrowby's letter on the Saturday, and on the following Tuesday morning I was sent back to my own department.

688. Viscount *Goderich.*] Were you the only person in your room in the Ordnance Office who was transferred in the mode that you have described?—The Ordnance Office is divided into various branches; the office to which I belonged was the Accountant-general's branch, formerly called the Surveyor-general's branch. There was a general registry room of the whole department, but there was a particular registry room of the Accountant-general's office, and it was to that work that I was transferred from the branch called the foreign account branch; that is to say, the branch which carried on the examination of the accounts current of the storekeepers at foreign stations.

689. Were you the only person in your room in the Ordnance Office who was

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was transferred in the mode that you have described?—I was the only person so transferred; I ought to explain that there were only two in the registry branch to which I was transferred, the other being a young man, a junior clerk in the branch; and I was put there to take the place of the senior, who was allowed to go on leave of absence, although he had already had about four weeks, and to take an indefinite leave which lasted four weeks more, whilst I was put there to do the duty.

690. Was it upon his return that you were re-transferred to your former department?—No; he did not come back for some days after I was transferred back to my old department.

691. Mr. *Coningham.*] While the above-mentioned delay was taking place in granting you leave of absence from your attendance at the Ordnance Office, did not Mr. Gooch, General Fox's deputy receiver, inform you on Saturday, the 16th of June 1855, that he would be absent for a fortnight on the 19th of that month to collect the rents in the country, which had been due on the 25th of March preceding?—Yes; but he was not absent the whole fortnight, he was only absent about a week. In consequence of his intended absence, I wrote on the 18th of June requesting that references in every case might be given from the items in the accounts which I was then examining, to the various documents which supported either the expenditure or verified the amounts of receipt in the receiver-general's account. But on my coming to the office I found that such had not been attended to, and consequently that facility which I had asked for, and which is ordinary to the rendering of all accounts, I did not meet with in this instance.

692. Finding these impediments thrown in your way, did you decide on availing yourself of the privileges and powers granted to you by Her Majesty's letters patent, of acting either by yourself or by deputy or deputies?—Yes, and in order that I might have an efficient party to assist me, I wrote to Mr. John Abel Smith, M. P., on 13 June 1855, asking him to recommend me a fit and proper person as a professional accountant. He recommended Mr. Coleman, who he said had been accustomed to audit very large accounts, and knew what responsibility was. I, therefore, on the 14th June, communicated with Mr. Coleman, who called upon me on the 16th of June, when I ascertained that he was the party who had been employed by the Treasury to investigate the defalcations in the accounts to which I have before alluded in my evidence, as having taken place at the Queen's Palace; and also that he had been the party employed at the Exhibition of 1851, to settle some accounts; which exhibition having been immediately under the patronage of the Prince Consort, I thought I could not alight upon a more fitting person to assist me with the audit of the duchy accounts. I therefore wrote to Mr. Coleman to meet me at the duchy office on the 18th of June 1855; but, in order that there might be no ambiguity about the reasons why I wished him to give me assistance, I stated the facts in a letter, which is inserted in my petition, under date of the 18th June 1855; and amongst the subjects alluded to, I mentioned that my object was to have his professional knowledge upon the system by which the accounts had been kept, and if possible to devise a method which would enable me to inquire into those accounts, without having continually to unravel and investigate past transactions and accounts, which, in fact, were closed. Mr. Coleman consequently attended, and I introduced him to Mr. Gooch, the deputy of the receiver-general; I told him that he was the gentleman whom I had selected to assist me in auditing the accounts as my deputy. I also, at the same time, acquainted Mr. Gooch that I should reserve to myself the power of looking to the minutes, and should place in my deputy's hands merely those matters which related to the accounts. Mr. Gooch opposed me in the exercise of this privilege, and positively refused, whilst Mr. Coleman was present, to produce the books, either to him or to myself in his presence. I pointed to my patent as the authority under which I was acting, but he was silent, and would not furnish me with any information, or even place any of the accounts before me, or before my deputy. I had, therefore, no other means left than to let Mr. Coleman withdraw from the office, and I was deprived of this extra opportunity of investigating the accounts of the duchy. I thereupon wrote to Lord Harrowby the following day, namely, the 19th of June 1855, requesting that his Lordship would enforce those powers which were granted to me by my patent. Although I very clearly set forth in my letter to his Lordship the reasons why I did so, he wrote back to

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me as follows: "In reply to your application to be allowed to submit the accounts, or portions of them, to an accountant, I should wish to have from you a distinct statement of the grounds for such an application." I therefore replied to his Lordship: "I beg leave to recall to your Lordship's recollection, that in my letter of the 18th instant, I said, 'That with a view to expedite the examination of the accounts now in the office of the duchy and if possible to suggest a plan for putting them on such a system for the future, as will allow of the sums which should be paid into the Bank being checked, without my having to revert to and disentangle the accounts of past years, I have, in pursuance of the permission granted to me by my patent, selected (after proper inquiry), a professional accountant of ability and great experience to assist me. I hope, therefore, that this course which, even at a pecuniary sacrifice to myself, I am about to adopt, will meet with your Lordship's approbation.'" Lord Harrowby replied: "I cannot find that any instance is on record in which the auditor has been allowed to appoint a deputy to assist him in the discharge of his duty, it being supposed that he is competent to discharge that duty himself. In this case there would be great inconvenience in allowing you the permission."

693. *Chairman.*] Did you take this letter of Lord Harrowby's to be a refusal?—Yes.

694. Mr. *Coningham.*] In paragraph 175 of your petition you state, that from the time you first commenced to audit the accounts you experienced not only a disrespectful but also an offensive tone of language and behaviour from the clerk in the duchy office who acted as General Fox's deputy receiver?—Yes; and in consequence of that I applied to the principal clerk at the Treasury, who was the gentleman to whom the discipline of that branch of the service was entrusted, to advise me under the circumstances; I explained to him exactly what had taken place at different times, and the kind of behaviour to which I was subject. His answer was, that I should take notice of it, and leave it there; I, however, refrained for a long time from taking any notice of it, because the impression upon my mind was that these offensive proceedings were carried on merely to draw me off from a close attention to the accounts which I was then examining: however, it was repeated to such an extent that I was obliged to take further notice of it; and, upon one occasion, when I called for some information, the behaviour was so offensive, and at the same time accompanied with what I considered to be an evasive answer, that I submitted the case to Lord Harrowby.

695. Viscount *Goderich.*] Is the gentleman at the Treasury, to whom you allude, Mr. Stephenson?—Yes. I took at the same time a memorandum of what had transpired; I read that memorandum to Mr. Gooch, the gentleman alluded to, and after that I transmitted it to Lord Harrowby; his Lordship took no notice of the subject whatsoever.

696. *Chairman.*] When you say that you complained to Lord Harrowby, do you mean that you complained in the letter which is set forth in your petition, dated the 5th of July?—Yes.

697. Mr. *Coningham.*] Will you read the letter of the 5th of July 1855, which you addressed to the Earl of Harrowby?—"My Lord, It is with much reluctance that I feel myself under the necessity of submitting to your Lordship a copy of a memorandum of the behaviour to which I have been exposed in the discharge of my duties as auditor, and I can assure you, that in addressing myself to the gentlemen of the duchy office, I have always been most particular in using terms of civility, from a desire to act consistently with my own feelings, and to avoid any pretext for converting questions purely official, on matters of account, into a personal difference. With reference to the letter I have had the honour to receive from your Lordship, dated 29th June 1855, refusing to allow me to avail myself of the assistance of a professional accountant, even at my own expense, to examine the accounts now in the office, and to devise a system for keeping them in future, which would render them more intelligible, and easier of examination than at present; I beg leave to inform your Lordship that I had already made arrangements to apply to that purpose the remaining days of private leave of absence which the head of the Ordnance Department has this year allowed to me for relaxation; and I hope your Lordship will do me the favour to desire that I may be allowed to apply that time without hindrance. It is, however, necessary that I should distinctly and prominently call your attention to the facts, that this ancient, and it would appear extensive property of the Sovereign, yields a rental of only about 28,000*l.* per annum; that, of the above sum, 15,000*l.* only is

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paid over for Her Majesty's use; that a balance of about 7,000*l.* is yearly brought forward in the accounts, as being to the credit of the receiver-general at the Bank, besides the additions thereto, which temporarily exist by the collection of the half-yearly rents, from which large sums Her Majesty derives no interest; that by the system upon which the fee fund account is kept, sums are yearly paid out of the duchy revenue, to it, and that certain officers of the duchy derive sums from this fee fund, which are not shown in the return to Parliament; but which increase the amounts therein stated to have been received by them on account of their offices, while the yearly account rendered by the receiver-general (being without dates of receipts and payments, and not being made up from systematically recorded cash and ledger accounts having warrants and vouchers to correspond with the entries therein), precludes the possibility of the auditor examining the accounts without the attendance of the receiver-general's deputy, and places him at the mercy of the parties accountable for the information with which he has to check their accounts. I do not for a moment impute irregularity nor deficiency; but I am bound to state, which I do most confidently, that the defective system of accounts maintained, exposes the duchy to serious risk; and it is my opinion that the course I suggested of having the above system investigated by a professional accountant, would have been very beneficial. The appointment was given to me both as a reward for public services, and to protect me from the loss of official income which I should have sustained in consequence of the transfer of considerable funds to the Treasury. When I was appointed to the auditorship of the duchy I was anxious to apply the qualifications which I had heretofore successfully devoted to the public service, to the benefit of Her Majesty's private revenue; but the defective system prevailing, and other impediments have prevented my doing so. I have the honour to be, my Lord, your Lordship's most obedient humble servant, *Francis R. Bertolacci*. The Right honourable the Earl of Harrowby, 39, Grosvenor-square." The following is the enclosure contained in that letter: "Memorandum, 6h. 25m. p.m., Monday, 2 July 1855. That this evening, being on the examination of the duchy accounts, and having asked Mr. Gooch to explain to me how the sum of 4*l.* 1*s.* 2*d.* was brought into the rental account from the sub-account of the bail of Lincoln, he, in an offensive manner and domineering tone of voice which he has assumed during the whole of my examination of the duchy accounts, said, 'If you will look, as I have shown you fifty times, you will see;' and with these words slapped his hand on the book before me; that I said in a mild tone of voice to him, 'Mr. Gooch, I must really ask you not to forget yourself; I have always treated you with civility and politeness.' To this he replied, 'If you come any of that nonsense with me, I shall leave you at once.' That I was going to leave the duchy office on receiving this reply; but I have come back to the room, and made this memorandum. *F. R. Bertolacci*, Auditor of the Duchy of Lancaster. I have read this memorandum to Mr. Gooch, 6h. 40m. p.m., 2 July 1855. *F. R. Bertolacci*. Additional memorandum: Evening of 2 July 1855. That Mr. Gooch on hearing this memorandum read, said, 'Shall you be here to-morrow; need I wait after four o'clock?' To which I replied, 'I shall communicate with the proper authorities.' No other words transpired. *F. R. Bertolacci*."

698. What did you mean by the reply which you made to Mr. Gooch?—I meant simply this, that as his conduct had been offensive, I did not wish to enter into any altercation with him, and that as it was my intention to place the matter before the decision of the Chancellor, there was no need for my bandying any words with him.

699. *Chairman.*] Although that may have been your intention, do you think, now, looking at those words, that that appears to have been a civil answer to what appears to have been upon the face of it a civil question?—The question as to the civility of it would depend very much upon the tone and manner in which it was made. My answer was briefly to the purport that I did not wish to enter into further communications until I had submitted the case to a higher authority.

700. This memorandum was sent to Lord Harrowby as a proof of offensive conduct on the part of Mr. Gooch; looking at it, and reading it, now, do you think that the offence is here so clearly made out as that Lord Harrowby should at once act upon it?—Lord Harrowby took no notice of it. He neither asked for explanation to my knowledge, nor took any notice at all upon the subject.

701. Mr. *Coningham.*] Will you state to the Committee any further instance of any offensive conduct on the part of Mr. Gooch?—Independently of that, so offensive was the manner in which he delivered his answer to me, and slapped his hand upon the book before me, that I thought I was justified in abstaining from further communications. But what I have alluded to in my communications with Mr. Stephenson was, the universally offensive behaviour that I met with from Mr. Gooch. He assumed a domineering tone of voice, more that of a superior to an inferior than between gentleman and gentleman. He, on several occasions, when I was auditing the accounts at the table, would sit down upon it, and throw himself into different postures, and put his feet upon the table, and in various methods render himself offensive. It is difficult to explain to a Committee of gentlemen, who are not used to such proceedings, how these things are shown. But I know as a fact that General Fox, whose deputy this gentleman was, held such feelings towards the auditor that I am not at all surprised at what transpired. On the 22d of February, I saw a gentleman of our department, and the language that was made use of by General Fox to him on that occasion is contained in the following memorandum:—"Memorandum, 22d February 1855. That having to-day gone to Mr. Connell, of the Secretary's branch of the Ordnance, on business of the department, he said to me, 'What have you done to General Fox,' to which I said, 'Why,' and he replied, 'Because he is in a furious rage with you.' Having asked Mr. Connell how he knew it, he said, 'I have seen General Fox, and he said to me, a damned fellow has come down to the duchy from Pall-mall, and wants to hold me responsible.' That I then said 'Although General Fox has been surveyor-general two or three times, I never saw him, but I should think he must be rather irritable;' he replied 'very much so;' and there the conversation ended.—*F. R. Bertolacci.*"

702. Did Lord Harrowby make any reply to your letter of the 5th of July?—No.

703. Did you apply to the clerk of the council for the use of a separate room?—Yes, and his answer was, that there was no room that I could have. There were, however, two rooms, one of which I ultimately did use.

704. Did you receive another letter from the Parliamentary clerk of the Treasury with reference to the accounts of the receipts and disbursements of the Duchy of Lancaster?—Yes, upon the 6th of July 1855 I received a letter from Mr. Stronge, asking me what answer should be made why the accounts of the receipts and disbursements of the Duchy of Lancaster had not been laid upon the Table of the House of Commons; and I replied immediately to that letter, which was sent to me only half an hour before the House of Commons met upon that day, upon the 6th of July 1855, which is inserted in my petition, and is as follows: "Ordnance Office, Pall-mall, 6th July 1855. My dear Sir, I must beg leave to refer you to my last communication on the subject of the Duchy of Lancaster accounts, to which I have only to add, that they are not examined, because the Chancellor desired that the accounts, which my predecessor had left unexamined, should be audited first; that the system by which the accounts are kept is, in my opinion, defective, yet complicated; that the Government have allowed me no time to examine the accounts; that, with a view to expedite the examination of the accounts, and to establish them in future on a more simple mode of being kept, and one which would render the auditing of them easier and a more effective check, I attempted to exercise the powers conveyed to me by Her Majesty's letters patent, of appointing a professional accountant of celebrity and established respectability, who has been engaged (I understand) in matters connected with the Palace, to assist me; that I met with the refusal of the accountable party, whose accounts I had under examination, to produce either account-books or vouchers to me; that I represented these matters to the Chancellor, whose support I called for, in protecting the privilege of my office for the object herein stated; that I have failed to meet with the support I asked for; that the present head of the Ordnance Department, some time ago, issued a general order, granting six weeks leave of absence, instead of four weeks, to the gentlemen of the department, in consideration of such days as they had been absent on leave since last summer, being deducted from the aggregate; that recently the aggregate has, by his order, been reduced to three weeks, from which are to be deducted the days of previous absence; that by this means, having been absent 12 days, six days private leave of absence only remain for me, which I have been waiting to apply to the duchy accounts, as soon as I could

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could get the impediments removed to which I have alluded; that a private understanding existed between Mr. Monsell and Mr. Strutt, at the date of my appointment to the duchy, that if the latter applied for two or three weeks' leave for me to audit the duchy accounts, it would be granted to me, which understanding was at the time mentioned to me by Mr. Strutt, and was admitted to be the fact by Mr. Henry Smith (Mr. Monsell's chief clerk), to whom I mentioned it at the time; but that, subsequently, Earl Granville, when he was Chancellor of the duchy, communicated to me that Mr. Monsell had refused to grant me leave of absence for the purpose, on his (Lord Granville's) application to him on the subject. I have, therefore, to request that, if Mr. Wilson answers at all upon the faith of my letter, he will communicate the whole substance of it to the House of Commons."

705. Did not Mr. Wise, the Member for Stafford, put a question, on the 6th of July, to Mr. Wilson, in reference to the accounts of the Duchy of Lancaster?—Yes; Mr. Wise asked, "why the accounts of the Duchy of Lancaster had not been laid on the Table of the House; the accounts of the duchy were generally presented in the month of February." The answer given by Mr. Wilson was not that which I had stated, but, "that with regard to the accounts of the Duchy of Lancaster, there had been some unsatisfactory delay, and he had that day communicated with the Chancellor of the duchy on the subject."

706. Did you, on the 25th of July 1855, receive from Lord Harrowby a letter, asking you for information as to the progress which you had made in the examination of the accounts, and did you, on the same day, receive a second letter from Lord Harrowby, inquiring whether the accounts of the year 1854 were yet audited?—Yes, before I had time to reply to the first letter.

707. What answer did you return?—On the 26th of July 1855, I wrote to his Lordship, "My Lord, I beg leave to state, in reply to the two notes which I had the honour yesterday to receive from your Lordship, that the portions of the accounts for 1853 over which my examination has as yet reached, are the dividends on stock account; the timber account, which involved the examination of several sub-accounts; creation money; the account which relates to small branches of revenue; a portion of the grants in fee, and a portion of the trust fund accounts; a portion of the salaries; the fee fund account; and the rents chargeable on account of the counties of Berkshire, Buckinghamshire, Derbyshire, Essex, Glamorganshire, Gloucestershire, Hampshire, the county palatine of Lancaster, Leicestershire, Lincolnshire, Middlesex, Monmouthshire, and Norfolk, on which I am at present engaged; and with reference to the accounts for 1854, a similar examination has taken place into the rents payable in the beforementioned counties. In order that no time should be lost which could possibly be devoted to the examination of the accounts of the duchy, I applied to Mr. Monsell, the head of the Ordnance Department, for the leave of absence he would grant me for relaxation and recreation during the year, informing him, at the same time, that my object in wishing for such absence from the office was to audit the accounts of the duchy. By the order he then made, a week only was allowed to me, which I applied to the duchy business; but before doing so, I drew up a paper on Friday, the 6th instant, requesting that references would be given from the entries in the accounts laid before me to the documents vouching the amounts of such entries, and (relying on the production of such information) I accordingly made arrangements at the Ordnance Office to be absent from Monday, the 9th, until Saturday, the 14th instant. I regret, however, to have to state, that no notice was taken of my requisition until Friday the 13th, when I found that a very small portion of the references to the items of the account for 1853 only had then been inserted; thus, by this delay, being prevented from making the advantageous application of even this absence from my Ordnance duties which I had hoped to do for the duchy. Yesterday evening, on looking at the same account, I found that the remainder of the references required had just been inserted, while none at all had been put to the items of the account for 1854. I feel bound to state these facts without any inimical feeling to anybody, as the mode in which the accounts are prepared for the auditor is a compilation and classification of transactions without reference to dates of receipts and payments, rather than an account made up from a proper system of journal and ledger; and it is only on attempting to test the correctness of such compiled statement that any notion can be formed of the great expenditure of time and labour which is caused by the want of direct

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references on the face of the account, from the items to the vouching transaction to them, and to the entries in the books of enrolment, banker's pass-book, &c. I wish also to inform your Lordship, that both before and since the week's leave to which I have alluded in this letter, I have applied myself for two or three hours per day to the accounts of the duchy, at the office, after the laborious duties I have had to discharge at the Ordnance during the official hours, from ten to four and five o'clock, and that, had the ordinary facilities existed to allow me to satisfy myself of the correctness of the accounts laid before me, the examination of them would most probably, by this time, have been completed."

708. Did Lord Harrowby take any notice of your letter?—No; Lord Harrowby made no reply to this letter.

709. In paragraph 195 of your petition you state that you had been occupied at the duchy office every evening after the accounts for 1854 had been rendered to you, and that you were auditing the accounts on Friday, the 10th of August 1855, till nine o'clock at night, and that you received the following day a letter from Lord Harrowby, superseding you in the office of auditor, and appointing Mr. Hawker?—Yes. I had been from the time of the expiration of six days (which I had been allowed from the Ordnance Office) working at the duchy office till late at night: some nights till nine o'clock. Up to a late hour on the night of the 10th, I was at the duchy office, at which time, from what I subsequently learnt, there must have been steps taken to put a successor in my place. On the 11th of August I received the following letter from Lord Harrowby: "Sir, I have at length found myself under the necessity of transmitting to the Treasury, for presentation to Parliament, the accounts of the duchy, without that audit from you, to which I had hoped they might have been previously submitted; and I moreover find, that even the audit of 1853, which by reason of ill health had not been carried out by your predecessor, Mr. Lockhart, is not yet completed. Looking to these and other circumstances, and to the length of time which has elapsed since you entered on your office in May 1854, I have come to the final conclusion which, in the month of May last seemed to me almost inevitable, that I must look elsewhere for the expeditious discharge of the duties of auditor of the duchy. Already considerable inconvenience has been experienced in the office, and I feel that this ought not longer to be continued. I have, therefore, taken steps for the appointment of Mr. Hawker, of the Audit Office, as your successor, by which act your patent is superseded."

710. Who was appointed to succeed you in the office of auditor of the duchy?—Mr. Alfred Hawker, who was nephew to General Fox's wife, Lady Mary Fox.

711. *Chairman.*] Will you explain to the Committee to what you refer by the words "steps had been taken to appoint a successor"?—I knew that steps had been taken from these facts, that when Lord Harrowby wrote to me upon the 11th of August 1855, he stated that he had taken steps, and that my patent was superseded, consequently his proceedings to supersede my patent must have been going on at the time when I was perfectly ignorant of it.

712. Will you turn to paragraph 199 of your petition, and give the Committee some explanation of what you mean by that paragraph?—What I mean by that paragraph is this: that, in May 1855, Lord Harrowby attempted to displace me, but I pointed out that his Lordship had not the power of depriving me of my patent. What I allude to, as showing a pre-determined intention on the part of his Lordship, is a letter which his Lordship wrote at that time to Mr. John Abel Smith, in which he said, that, if they lost the services of Mr. Bertolacci, all they had to do was to get a gentleman from the Audit Office; and it afterwards turned out that the very office to which Lord Harrowby pointed in May (as that from which he meant to take a successor to me, which immediately followed his intimation that he had read the letters from General Fox, in which he said that he would suggest that I should be displaced), ultimately was the office from which he in August selected a gentleman, namely, the Audit Office, and that gentleman proved to be General Fox's nephew by marriage.

713. Is that the explanation which you give to the Committee of these words in your petition: "His Lordship had recourse to making a statement respecting that office which was not the fact, to give a colour of propriety to this intention"?—Yes.

714. Will you state to the Committee in what way it is that his Lordship, as you state in your petition, has "had recourse to making a statement respecting that office which was not the fact;" in what way did he make a statement which

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was not the fact?—He states that the rules of that office allow gentlemen to devote a portion of their time to other business. I have made inquiry of the gentlemen at the Audit Office, and I find that not to be the case; that it is at variance with the general rules of the service; and that was made the groundwork for suggesting that, if I was displaced, another gentleman might be taken from the Audit Office.

715. Do you understand by the terms of that letter of Lord Harrowby's of the 4th of May, to which you now refer with respect to the power that he had of selecting a successor from the Audit Office, that he had any particular clerk at the Audit Office in his eye?—I draw that inference from the fact that General Fox, in the month of February, told me that as soon as a new Chancellor should be appointed, he would recommend that I should confine my duties to the Ordnance Office, which was equivalent to saying that I should be displaced from the office of the Duchy of Lancaster. Lord Harrowby afterwards states that he has read the correspondence between General Fox and myself. In a letter which he writes at the same time as I have before stated to Mr. John Abel Smith, his Lordship said that if they lost my services, all they had to do was to get a gentleman from the Audit Office; and he stated as a ground for selecting a gentleman from that office, that the rules of that office allowed the clerks to devote a portion of their time to other business, and I have since found out that that is not the rule of the department.

716. My question is, do you think that Lord Harrowby, in using those terms, is to be understood as having had any particular person in his eye, who should be appointed in your place; or that he only spoke of it in general terms, that if you were superseded it would be possible to find a successor in the Audit Office?—I think that, taking the ground of the various correspondence upon the subject to which I have alluded, leads to the inference that the party about to be selected was the one recommended by General Fox.

717. Then I understand you to be of opinion, that Lord Harrowby, when he wrote that letter to Mr. John Abel Smith, had in his eye the particular gentleman who subsequently was appointed as your successor?—I believe from what has since transpired that that was the case.

718. Have you any other reason to think so besides the terms of the letter, and the circumstances which you have already stated to the Committee?—I have heard that the gentleman who has been selected to supersede me, and who is the nephew of General Fox, the receiver-general, made no application for the appointment, but that he was called in and offered the appointment at the council; General Fox, being a member of the council, having told me that he would suggest my displacement, or at least words equivalent to that, and subsequently his nephew being sent to and offered the appointment, together with the fact of a statement by Lord Harrowby, in his letter of May to which I have before alluded, saying that the rules of the Audit Office allowed gentlemen to devote time to other business, which I have subsequently found out not to be the case; I conclude from all those facts, that at the time when the first attempt was made to displace me, an influence had been used by General Fox to get his nephew appointed.

719. Are the Committee to understand that the documents, which you state in paragraph 199 of your petition you are prepared to lay before the House, are those documents, and only those documents, which you have now laid before the Committee?—Yes.

720. Viscount *Goderich*.] You spoke just now of Mr. Hawker as a person who was recommended by General Fox; do you know, of your own knowledge, that he was recommended by General Fox, or do you only draw it as an inference in consequence of his being nearly related to General Fox?—I draw it as an inference, and it has been told me in a private conversation that I had with a gentleman who knows them both, that General Fox was the person who got him the appointment; but I am bound to believe that Mr. Hawker did not apply for the appointment.

721. Mr. *Coningham*.] In the 200th paragraph of your petition, you state that Lord Harrowby advanced the illness of Mr. Lockhart, your predecessor, as a reason why the accounts for the year ending 29th September 1853, were not audited so late as the month of May 1854: have you any reason to suppose that the accounts were kept open for any other purpose?—That is contained in the previous answer which I have given to the Committee, where it was stated to me,

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in September 1854, that the reason for their not being closed was, that they were kept open to allow Lord Granville to pay the arrears of rent, and that then it was necessary to close them to present them to Parliament.

722. From whom did you hear that?—I had that information from Mr. Gooch, the deputy to the receiver-general.

723. *Chairman.*] Did you write to Lord Harrowby after having received from him the letter of the 11th of August?—Yes, on the 13th of August, on Monday evening, I wrote the letter of that date, which is inserted in my petition, protesting against the illegality of the proceeding, the injustice of the proceeding, and the various means which had been adopted to throw impediments in my way, and ultimately to deprive me of that office which had been given to me as a reward for past services, and concluding with announcing my intention on the re-assembling of Parliament to present a petition praying for investigation. As I have in the first part of my evidence explained the delay which has occurred, I need not go into the matter further.

724. Mr. *Coningham.*] Lord Harrowby, by his reply of the 17th of August 1855 to your letter of the 13th, denied the fact that the patent office of auditor of the duchy of Lancaster was given to you as a reward for your public services, and to protect you against the loss of income which you would have sustained by the transfer of a fund to the Government from which you had derived your salary; will you produce that letter?—The letter is dated the 17th of August 1855, and is as follows: "Sir, I only wish to remark on one or two points in your letter of the 13th instant. You state that I determined in May last, immediately on my receiving the seals of the duchy, to displace you from your office; this is not quite correct. I received them in the last week in March; and it was not till I had read all the previous correspondence and made many inquiries, that I came to the conclusion that you were not likely to be able to carry on advantageously the duties of auditor. This decision was suspended after having seen you, and being led to hope that I might have been mistaken in my impression. I am sorry to say that subsequent experience has only confirmed it, and has made me feel that I had no alternative. You speak of the appointment as having been given to you by a late administration in fulfilment of a pledge, and as a reward for past services in another department. I beg to say that I find no reason to believe that such was the case. Mr. Strutt, having no other object in view than securing to the duchy an efficient officer, asked Mr. Gladstone if he could suggest such a person, and your name was mentioned to him; at all events the interests of the duchy could not be sacrificed to any such consideration. I am, sir, your obedient servant, *Harrowby*."

725. Is it true that since the determination thus evinced by you to make such inquiry into the past transactions of the duchy, the payments to Her Majesty's privy purse have increased from the year 1855?—Yes, that will be shown by the accounts laid before Parliament.

726. *Chairman.*] Do you know what has been the sum paid into her Majesty's privy purse in the year ending September 29th, 1856?—No, but I believe it has rather increased; at least it is not less than it was before.

727. Viscount *Goderich.*] Has there not been a steady increase in the payments to Her Majesty's privy purse since 1848?—Yes; but the great increase was from 1853 to 1855, the two years during portions of which I was connected with the duchy, the increase being from 15,000 *l.* to 20,000 *l.*

728. Mr. *Coningham.*] In the 217th paragraph of your petition, you state that by the accounts of the Duchy of Lancaster, for the year ending 29th of September 1855, it is shown that the sums paid yearly to the clerk of the council as salary are 1,200 *l.* and 142 *l.*, making a total of 1,342 *l.*, whereas in the accounts previously presented to Parliament, sums making about one half only of this amount have been entered in such returns as having been paid to this officer, although in fact he has received the larger amount yearly. Is that statement correct?—In 1852, the total amount paid to the clerk of the council appears as 732 *l.* 8 *s.* 1 *d.*, which was made up of allowances as clerk of the council 650 *l.* 16 *s.* 4 *d.*, also allowances as secretary to the Chancellor, 71 *l.* 11 *s.* 9 *d.*, and as salary 10 *l.* In 1853, the allowances to the same officer were 572 *l.* 15 *s.* 2 *d.*, further allowances 63 *l.*, and salary 10 *l.*, making up 645 *l.* 15 *s.* 2 *d.* In 1854, the amount of allowances was 715 *l.* 6 *s.* 10 *d.*, further allowances 87 *l.* 13 *s.* 10 *d.*, and salary 10 *l.*, making 803 *l.* 0 *s.* 8 *d.* In 1855, nothing is put down for allowances, but 1,200 *l.* is put down for salary as clerk of the council, and, as secretary

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to the Chancellor, 142*l*, making 1,342*l*., which, as near as I have been able to ascertain, I believe to be the amount yearly received throughout the whole of the period. But I must explain how this is: the money comes from what was called a fee fund, to which a sum was annually paid by the duchy, and the officers drew from that fee fund certain sums which did not appear in the returns to Parliament; and I believe that the change, showing the whole upon the face of the returns, arose in consequence of my representations to the Chancellor, that such was not consistent with the Act of Parliament, which required all receipts and disbursements to be shown.

729. *Chairman.*] You put before us the case of the salary of the clerk of the council as a proof, in your opinion, of the beneficial results of your exertions in the office of auditor to simplify and make more regular the form of accounts?—Decidedly. I do not thereby allege that there has been any peculation or anything wrong, but merely that a very wrong system existed, which I was attacking; and this is one of the instances in which I have been able to bring before the House of Commons the real amount received by the officers of the duchy.

730. How many years have you been in the public service yourself?—I have now been in the public service upwards of 21 years.

731. Was your father also in the public service?—My grandfather was the president of the Supreme Court of Judicature at Bastia, in Corsica; he was chief justice also in that island, and he held those appointments under the British Government when Lord Minto was the viceroy, and when the island was annexed to the British dominions.

732. You say that your grandfather was president of the Supreme Court at Bastia, under the British Government; did he quit Corsica?—He quitted Corsica, but he did not come to England. My father came to England at a very early age, at the same time as General Paoli. My father then entered the service in Ceylon, where he held in succession the appointments of Deputy Commissary of Musters to His Majesty's troops, Postmaster-general, agent to the Government, Comptroller-general of Sea Customs, and lastly, Acting Auditor-general of Civil Accounts. My mother was an English lady, the daughter of Captain Hewetson, a British officer, and granddaughter of Archdeacon Hewetson, and I myself was born within the metropolis. I wish to state that I have no unfriendly feeling whatsoever towards the gentleman who has succeeded me; I believe him to be perfectly honourable, so far as I know. I have even known his brother upon very friendly terms, and it is from no ill-feeling on my part towards any parties concerned that I have been obliged to bring this matter before the House of Commons.

Veneris, 10° *die Julii*, 1857.

MEMBERS PRESENT:

Mr. Bramston.	Viscount Goderich.
Mr. Coningham.	Mr. J. Hans Hamilton.
Mr. Sotheron Estcourt.	Lord Harry Vane.

T. H. S. SOTHERON ESTCOURT, Esq., IN THE CHAIR.

Thomas Flower Ellis, Esq., called in; and Examined.

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733. *Chairman.*] YOU are the Attorney-general of the Duchy of Lancaster?—Yes.

734. What was the date of your appointment?—The 9th of May 1839.

735. What are the particular duties of your office?—I hold it, I should state, during Her Majesty's pleasure. My duties were prescribed to me in a paper that I have here; this was the paper sent to me: "The duties of the Attorney-general of the Duchy of Lancaster are to attend the Chancellor in the Duchy Court at Westminster as assessor, whenever that court sits; also to attend, when summoned, at the Court of Revenue, or Duchy Council. All duchy leases and patents pass through the office of the Attorney-general, who signs the drafts of the

the same, as his fiat or approval of the forms. Certain orders of court are also laid before this officer to peruse and settle, and such cases as may be referred to him for his opinion and report by the directions of the court. The emoluments consist of a fixed salary of 100 *l.*, and of fees on the passing of leases, patents, and other grants, &c., which, on an average, may be said to amount to about 90 *l.* per annum." That last is now commuted upon an average. I believe, they come to about 84 *l.* or 85 *l.*; so it is 185 *l.*

736. Lord *Harry Vane.*] Your salary is about 180 *l.*?—The salary is 100 *l.* in absolute strictness, but besides that the commutation fees are between 80 *l.* and 90 *l.* The salary is subject to the land-tax; that is 8 *l.* or 9 *l.* a-year, I think. I understand that in the evidence given before the Committee already, in more instances than one, three or four times over, I have been charged with evasion as to the correspondence which took place between me and the then auditor, with respect to his responsibilities and duties. Of course, that is not a light charge, and I should wish to explain it. The auditor wrote to me enclosing his patent, and desiring information as to his powers, and what course he ought to pursue if an accountant neglected or refused to render his accounts; and who were responsible under the statute of 1st & 2d Vict. That was the 15th of February 1855; and, of course, that question could be addressed to me only in one of two characters, either as Attorney-general of the Duchy, or as an individual independently of my office. As Attorney-general of the Duchy, of course I was Her Majesty's adviser; and the question, if put to me in that character, amounted only to the inquiring what advice I should give Her Majesty, which was a question I could answer only when put to me by those representing Her Majesty. As an individual, I could, of course, give an opinion, and I offered to do so; but that I stated would not be of much importance to the gentleman who applied for it; because, of course, he wanted the protection of an official opinion. I therefore thought the most straightforward course was to write to him, and state that. I did so in a letter which has been put in evidence; and then the auditor wrote to me as follows: "I was not aware that in seeking information from you as to my powers of auditor to carry into effect the commands of Her Majesty by my patent, I was trespassing 'privately'" which is underlined, "on your professional talents;" and stating that he believed the office of auditor was independent of the council in some way. I did not distinctly collect from that what the auditor meant me to do; for I had offered him either to give my private opinion, or to take steps to produce an official opinion. I, therefore, wrote again, stating that I collected from his letter that it was not his wish that I should lay it before the council; but if he wished that I would do so, if I was mistaken; my letter was put in in answer to Question 598. I was obliged to go to hold the Leeds sessions at the time; and that was the cause of my leaving London; and then I had an answer, the important part of which is, "If you consider it necessary to submit the matter to the Chancellor and council, I shall feel obliged by your doing so;" and I was to take any steps that I might consider necessary, if I conceived myself not authorised to adopt the course of giving him official information, in order to afford him the information. Then in consequence of that I handed the correspondence in to the duchy; and long before the next council was held, the matter was superseded by my opinion being required upon the part of the council, before any general council was held. I mention that to show that I really do not know how I could have pursued a more straightforward course; I am not conscious of any want of courtesy, or any evasion, except that I did not like to notice the tone of the letters, which appeared to me to be somewhat offensive.

737. Mr. *Coningham.*] Did you say that Mr. Bertolacci had refused your private opinion?—He did not directly notice the offer in any way, as I understood; but I understood him by implication to refuse it; I thought it rather a sneer; but I may be mistaken in that. He says, "I was not aware that in seeking information from you, as to my powers of auditor, to carry into effect the commands of Her Majesty by my patent, I was trespassing privately on your professional talents;" and then he went on to state that he thought the office independent in some way of the council. Then the next council to which the members were summoned generally was held in May; but on the 14th of April, 1855, the Vice-Chancellor of the county palatine (Mr. James) and I gave an opinion on the subject, which I have here. Here is the case, and here is our answer.

738. *Chairman.*] Who put the case to you?—"The court has directed;" it, in fact,

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fact, was the Chancellor who constituted the court by himself at that time; the language is "the court," but it was no doubt the Chancellor, because nobody else had attended.

739. The case was put to you jointly?—Yes it was, jointly.

740. Lord *Harry Vane.*] What was the date?—It was certainly before the 14th of April.

741. Will you be so good as to read it?—It is headed "Duchy Auditor." "The papers which accompany this are a statement made by Mr. Bertolacci, the auditor of the duchy, dated 10th March 1855, explaining his views of the office of auditor, and of its duties, rights, and powers. During the preparation of the before-mentioned statement the auditor called at the duchy office and saw Mr. Hardy, the clerk of the records, on two points, upon which he desired information. No. 1, page 1" (that is a paper accompanying this), "contains the observations made by the record clerk on such two points. No. 3, page 41: The record clerk's remarks on such portions of the auditor's statement as appear to appertain to the observations, No. 1. The notes in blue ink on the statement, No. 2, are those made by Mr. Danvers, the clerk of the council. The notes in red ink were made by the auditor, and appeared on the statement when it was first delivered. The court has directed that these documents should be submitted to the Attorney-general for the duchy, and to the Vice-chancellor of the county palatine, for their opinion." Then follow the questions: "Whether, by the arguments urged by the auditor in his statement, he has established his right to claim a seat at the council?" That is the first; to which our answer is, "We are of opinion, most clearly, that the auditor has not, by the arguments referred to, established any right to claim a seat at the council." The next question is, "Whether, by not being admitted to such seat, he is deprived of the powers which are necessary to discharge the duties belonging to his office?" To which we answer, "We are of opinion most clearly that the auditor is not, by not being admitted to such seat, deprived of any power necessary to discharge the duties belonging to his office. We are informed that Mr. Bertolacci has access to all minutes relating to his duties. *T. F. Ellis. W. M. James.*—Duchy-office, 14th April, 1855." The Committee will see that that is not quite a full answer to the inquiry now before the Committee, because we were only asked whether the argument submitted by the auditor furnished a right, but not generally whether he had a right; and therefore we confined ourselves to that point. No members were summoned to meet the Chancellor at the council till May.

742. Do you put in those questions by way of giving further information to the Committee upon that which is represented by Mr. Bertolacci to have been evasive conduct on your part?—Certainly.

743. Mr. *Coningham.*] Did not Mr. Bertolacci again write to you on the 19th of February 1855, stating, that in addressing you in his official capacity of auditor of the Duchy of Lancaster, and in seeking information from you as to his powers to carry into effect the commands of Her Majesty by his letters patent, he did not consider he was trespassing privately on your professional talents, and was not that letter signed as "Auditor"?—Yes; it was from that that I was induced to give the answer which I did just now, that I did not consider he wished for my private opinion.

744. Do you consider that your letter of the 21st of February 1855 was an explicit answer to the question to which Mr. Bertolacci had requested a reply as to the powers granted him by his letters patent, to obtain accounts from those persons who had either neglected or refused to render them to him?—No, I certainly consider it is not an explicit reply; that was my reason for pointing out the proper course for getting an explicit reply; it was pointing out a proper and better way of getting it.

745. Did you not in that letter raise an inference that Mr. Bertolacci did not wish you to lay his inquiry before the council of the duchy?—I stated that that was my inference; I concluded that either he would do it, or take some other steps, or let it alone, in fact.

746. Did not Mr. Bertolacci, in his reply of the 21st of February 1855, state, that he had no objection to your making any communication to the Chancellor and council that you might consider his inquiries required, if you did not think yourself authorised, without adopting that course, to afford him the information he had officially solicited from you; also that, if you adopted that course, did he not request that you would lay before the Chancellor all his correspondence with you upon

upon the subject?—Yes, for which reason I did so. I was leaving town; but before I left town I handed them over to Mr. Danvers, and put them in, as being the nearest compliance that occurred to me with Mr. Bertolacci's request.

747. I understand that you did submit the matter to the Chancellor?—I do not think there was a Chancellor at that moment; but I sent all the papers to the Duchy, and left them there; and it was my intention to bring the matter before the council, if there had been a council held; but before a general council was held the opinion I have read was asked.

748. That document which you have put in, was that the only further communication?—Yes; I communicated no further, because my opinion was afterwards asked, and I presumed the council would act as they thought fit upon it.

749. Are you aware whether any further communication was made to Mr. Bertolacci on the subject?—I have heard there was; but I really cannot tell you expressly. I think Mr. Bertolacci saw Lord Harrowby; but I merely speak from what I have heard. I do not know; I merely mention this because I had thought I had acted in compliance with Mr. Bertolacci's wishes in the most straightforward way that I could.

750. What is your salary as attorney-general of the duchy?—The actual salary is 100 *l.*; but that is not the whole emolument, because I used to receive fees upon certain documents passing the duchy, which afterwards were commuted upon an average of, I think, three years, and I believe the amount of the commutation came to between 80 *l.* and 90 *l.*; and then there is the land-tax on the salary of about 8 *l.* or 9 *l.* Those are not the only emoluments which I derive indirectly, because now and then a case is submitted to me which is thought to require more consideration than could be given to it by my opinion being asked at the moment when attending the Chancellor. I have given an instance of one of those cases; and then, of course, I have the ordinary fees of counsel in answering it; and if the duchy happens to be engaged in litigation, which is not common, then I am also engaged as counsel, which is another collateral advantage. I do not recollect any other at this moment.

751. How long have you been connected with the Duchy of Lancaster?—I was counsel to the duchy before I was attorney-general, for a short time; but, as such, I had very little connexion with the duchy; I do not think I had anything to do with them above once a year; my real connexion with the duchy commenced when I was made attorney-general.

752. *Chairman.*] Will you give to the Committee your opinion with regard to the right of the auditor to have a seat at the council?—My opinion is, that he has no right, and that nobody has any right, properly speaking; that there is no such thing as a right to a seat in the council.

753. Do you conceive that there is such a thing as a council of the duchy?—Yes.

754. Of whom do you conceive that council is composed?—The council is composed, if the Chancellor sits by himself, of the Chancellor; he then is the council; but what he does in that character is described in documents emanating from such sitting as the Chancellor and council always; but he has a council if he chooses to summon certain members, who are generally the same members; they then with him constitute the Chancellor and council.

755. Who are the members whom of late years he has summoned?—Previously to the resignation of Mr. Lockart, I think the members must have been these: the attorney-general, the auditor, and the receiver-general; in strictness, I believe it used to be considered that the Vice-chancellor of the county palatine was, though summoned, rather an innovation at one time; but I would not wish to speak positively as to that; he generally was summoned; and latterly he has been considered a member of the council; then there was a council appointed under Lord Campbell.

756. In what capacity were they appointed?—He made them councillors; he had them sworn in before Her Majesty.

757. Viscount *Goderich.*] Was that in 1844?—No, in 1847 I think.

758. *Chairman.*] Will you now state the names of the council who were appointed by Lord Campbell?—Lord Portman, Lord Hardwicke, the Duke of Newcastle (Lord Lincoln, he was then), Colonel Anson I think, and Lord Spencer.

759. Did this council, which was appointed by Lord Campbell, consist of persons not officially connected with the duchy?—Yes.

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760. Then the official members before Mr. Lockhart's resignation consisted of the attorney-general, the auditor, the receiver-general, and the Vice-chancellor?—Yes; those were always summoned, I think.

761. Will you state what change took place upon the resignation of Mr. Lockhart?—I no longer met the auditor there; and I know that it was in consequence of his not being summoned.

762. Whom have you met since the resignation of Mr. Lockhart?—Very much the same members that I have named, more or fewer; but Colonel Anson is dead, and Mr. Phipps is appointed in his stead.

763. What official members have you met since the resignation of Mr. Lockhart?—Sometimes the receiver-general, and the Vice-chancellor of the county palatine, and myself; that is all, I think.

764. At every council to which you have been summoned since the resignation of Mr. Lockhart, have you met the receiver-general and the Vice-chancellor?—No; sometimes they are not able to attend the summons. I presume they are summoned; the receiver-general is very often not present.

765. Have you occasionally attended a council since the resignation of Mr. Lockhart, at which you were the only member of the council besides the Chancellor?—I think I must; I have received this sort of message sometimes: "The chancellor wishes to see you;" and I have gone down; and I suppose, strictly, that is a council.

766. What has been the summons to the council since the resignation of Mr. Lockhart?—We get a card, headed "Duchy of Lancaster," to this effect, "A council will be held, at such a time, at the duchy office."

767. Will you state your opinion with regard to the claim of the auditor to have a seat at the duchy council?—I think nobody has a claim; I do not think I have a claim myself, in strictness. I should like to add to that, that if, having taken the office of attorney-general, and nothing having been said to me about my not being summoned, I had afterwards found that my predecessors had been summoned and I was not, I should have thought it due to myself to require an explanation, and, if that was not satisfactory, I should have resigned the office; if I had received such an explanation when I was offered the office, I should have considered whether I should accept it upon those terms; if I had accepted it upon those terms, and thought that I had been misled, I should then have resigned the office.

768. Do you think that it was competent for the Chancellor for the time being to have acquainted the auditor whom he appointed on the resignation of Mr. Lockhart, that he would have no right to a seat in the council, and would only attend there when summoned?—Yes; I have no doubt of it.

769. Will you state the grounds of your opinion?—I can find nothing from which it can be inferred that anybody has a right to attend, that it is anything more than this, that the Chancellor on certain occasions requires the attendance of such members as he wishes, who have been sworn in to give their attendance; but he himself, being perfectly autocratic, may act without them.

770. Then the result of your legal opinion upon this point is, that no one has a right to a seat at the council, and only such persons as he may chose to send for from time to time may sit there?—Yes.

771. That is your legal opinion?—Yes; on some occasions I think the Chancellor will be found to have summoned only particular members, even of the ordinary members.

772. In forming your legal opinion, have you taken into consideration the Act by which the Duchy of Lancaster was separated from the Crown?—If the question refers to the charter of Henry the Fourth, I do not know the particular passage adverted to.

773. Lord *Harry Vane.*] Have you had it under your cognisance?—It has been through my hands repeatedly. The Chancellor and council in my opinion means the Chancellor if he chooses to sit alone, or to call others if he chooses.

774. Viscount *Goderich,*] That is the interpretation which you put upon the words "Chancellor and council" in the various Acts of Parliament in which they are used?—That is so. I took the trouble the other day to try and find out how early the phrase "Chancellor and council" had existed. The latest place in which I found the old phrase, which was "council" simply, "by the advice of our council" was in a lease mentioned in the great case in Plowden's Reports, the case of the Duchy of Lancaster. That is a lease of Edward the Sixth's

Sixth's time; and there it is: "By the advice of our council" we do so and so; but as early as Charles the Second the phrase had become "Chancellor and council." The language of the lease in Henry the Eighth's reign was this: "King Henry the Eighth being seised of certain lands in right of his Duchy of Lancaster, made a lease to W. C., by the advice of the counsel (that is according to the old spelling), of the said duchy, and under the duchy seal, for the term of 21 years, and died; after whose death King Edward the Sixth, by like advice, made a lease" to so and so. I believe that the greater part of the business now is done by the Chancellor alone; it always runs in the name of the "Chancellor and council," much like the Board of Control, when the President only attends, and the Treasury and Poor Law Board likewise.

775. Lord *Harry Vane.*] In giving an answer to the question whether the auditor or any other person had a claim to a right to sit in the council, did you consider the various Acts bearing upon the question?—I am not aware of any bearing upon that particular question.

776. But you considered the charters with reference to this question?—I cannot say that I have looked very minutely through them. I have looked at the charters; and if there had been anything contrary it would have struck me.

777. This point having been raised, did you consider the charters with a view to a settlement of that point?—Yes; I have no doubt we did then.

778. Then it was on a consideration of those charters, that you gave that legal opinion?—Yes; but they would be brought only in a limited way before us, because the question was a limited one.

779. *Chairman.*] Is it your opinion that the Chancellor in limiting the attendance of the auditor, by telling him he would only have a seat at the council when summoned, went beyond the bounds of his legal powers?—No, I do not think he did.

780. You say that before the resignation of Mr. Lockhart, he being then auditor, you frequently met him at the councils?—I did; I have no doubt that he was always summoned.

781. Do you conceive that Mr. Lockhart's attendance was in consequence of the Chancellor choosing to summons him, or by any right of his office?—I think it was in consequence of the Chancellor choosing to summons him; but then the choice of the Chancellor, no doubt, was determined by what he had found ordinarily done before.

782. Mr. *Coningham.*] Am I to infer that it is your opinion that Mr. Bertolacci agreed to be excluded from the council?—I have not said that; but what I understood was that he had been told at the time that the office was granted him, that he would not be summoned except upon the particular matters relating to his business.

783. What is your construction of the supposed agreement which was entered into between Lord Belper and Mr. Bertolacci upon his appointment, the supposition being that he would only be called upon to attend when the duties of his office required?—The inference from that would be that no summons would be sent to Mr. Bertolacci in ordinary cases, and that therefore, if he required to attend on the occasions when he was not summoned, he would not be permitted to do so; but, if the Chancellor, or anybody whom he advised with, thought it necessary that Mr. Bertolacci's attendance should be given upon any particular meeting of the council, then Mr. Bertolacci would be summoned and should attend; but it would amount to an exclusion upon other occasions practically.

784. Are you aware that in the charters of the Duchy of Lancaster, which are published by the authority and under the direction of the Chancellor and council of the Duchy of Lancaster, the Chancellor and council are referred to, and the attorney-general, the receiver-general, and the auditor, though not the vice-chancellor, are placed as members of the council?—No.

785. Am I to understand you that in your opinion the Chancellor has the right of excluding members of the council?—Of sitting without them entirely.

786. Of excluding them?—I should not like to fix myself to such a particular expression, because that implies their coming, and being pushed out again; but the Chancellor has the full power of saying, "I do not want anybody else;" and, if he says so, there is no power in any one to come; that is as to any member of the council.

787. It comes to exclusion practically?—Yes, it would come to that; I did not like to adopt such a strong expression.

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788. Are you aware that the grants in fee state that they are made by and with the consent of the Chancellor and council?—Yes; I have stated that just now.

789. Then, in fact, you are of opinion that the Chancellor can act without the assistance of the council at all?—Certainly; and that, so acting, his act would be called the act of the Chancellor and council.

790. Have you, during your connection with the duchy, or from any information which you may have as its attorney-general, known of a case before Mr. Bertolacci's appointment, in which the auditor of the duchy was excluded from the council of the duchy?—No; I have known none, and I may add that I should be rather surprised to find such a case.

791. Do you know any reason why Mr. Bertolacci was excluded from the council?— I believe I can speak, perhaps not more than anybody else can, but I can give you the reasons why I conjecture it was done; it was thought his attendance was not necessary, that we have now a very full council under Lord Campbell's alteration, and that the salary was decreased, and consequently the duties were diminished to a certain extent. I suppose that was the reason; but the Committee will see I am merely acting upon a general guess.

792. Viscount *Goderich*.] It has been stated to the Committee that there are words in the oath taken by the auditor which imply that he has a right to sit as a member of the council; is it your opinion that any words contained in that oath confer or imply that right?—I see the council mentioned in two places in the oath. The first is where the auditor swears to "be obedient, diligent, and attentive unto the council." That would not, of course, imply it. The next mentioned is, "Ye shall also keep secret all such things as ye shall hear spoken and communed in the council of the duchy, and the same in nowise to discover nor make open to any other person, only to the Queen's own person, or such other of the said council as ye shall be commanded to do." The keeping secret what he hears spoken and communed in the council of course would not imply it, because, as he might be summoned on certain occasions when the court thought it necessary he should come in the performance of the duties of his office, he would there hear things which his oath was intended to make him keep secret. But this looks more like it: "Or such other of the said council." That might look as if it implied that he was one; that is the only thing like it.

793. You do not consider that the words "ye shall hear communed in the council," have that effect?—No.

794. *Chairman*.] Have you ever given an opinion officially, either to the Chancellor or to Mr. Bertolacci, or to any other person, implying that the auditor has a right to sit as one of the council?—No.

795. Do you find in the patent of the office granted to Mr. Bertolacci any words which imply that the auditor would have the same right of sitting at the council as his predecessor, Mr. Lockhart, had?—No; there is nothing from which I should infer that.

796. Do you understand, by any words in that patent, that the powers and privileges exercised by Mr. Lockhart, and which by that patent are granted to Mr. Bertolacci, imply any claim whatever to a seat in the council; or do you think that that patent in any way implies that those powers, whatever they were, were diminished in the person of Mr. Bertolacci?—No, certainly not; because as the Committee will recollect, my opinion is, that Mr. Lockhart had no right. The only diminution is that the salary has been diminished.

797. It is a part of the duties of your office to be made a party to all leases granted by the duchy?—Yes; not in strictness a party, but to vouch them in a particular way.

798. Will you explain in what manner you take a part in any of the bills and leases of the duchy?—The bills relate to grants in fee, and the leases are for a term; with respect to the leases, what I understand myself to do, is to vouch (by putting my name to the bottom of the draft of the lease on paper) that that is the proper form for carrying into effect the order which I understand to be made by the Chancellor or the council.

799. Now with regard to bills, will you state what you do?—I do the same with bills, only it is done in rather a different form, for there they go for the Queen's sign manual. The bill is first of all drawn, as the grant is finally to pass the seal; under that, I write my name, and now the auditor does; formerly it was the clerk of the council; and then there comes an account of what the purpose of

of the bill is. To the first part, I add my name "attorney-general of the duchy" or "attorney-general," and I think the auditor adds his name "auditor," and below that runs a certificate, explaining to Her Majesty what the purpose of the bill is, and stating that conditionally upon the money being paid it is to pass the Great Seal. To that I sign my name without additions; and so, I believe, does the auditor. Then Her Majesty signs the bill, authorising it to pass the Great Seal upon the money being paid. By that, I vouch for the form being the proper form, and that I am satisfied it is in pursuance of the minutes of the council. There is a slight variation where the money happens to have been paid, which is very seldom. Then it would be "the money having been paid."

800. Is it a part of your duty to ascertain whether the sum paid, or to be paid, is the full price?—No.

801. You have nothing to do with that?—Nothing whatever. I may, if the Chancellor thinks it worth while to call me as a member of the council, and ask me my opinion.

802. In your character of attorney-general you have nothing to see to, except that the form is in pursuance of the minutes of the council?—Yes; and the proper form for carrying their wishes into effect. Some time ago Lord Portman and myself drew out a set of forms.

803. Is it your understanding of the office of auditor, that it is his business to ascertain that the form is correct, or that he has anything to do with ascertaining the value of the property?—I should think that he has no more to do with the ascertaining the value of the property than the Auditor of the Public Accounts has in determining the propriety of the Chinese war.

804. Looking back to the time when Mr. Lockhart was auditor, what was the practice then; did the auditor take any means to ascertain, so far as you know, whether the price stated in any bill or lease was a fair equivalent?—I never heard that he did; he might have done so without my knowing it; it would be new to me to find that he had done so.

805. Looking at transactions of the same kind that have passed under your cognisance since Mr. Bertolacci was appointed auditor, do you see any difference in the mode in which the duchy office proceeded with him, from what it did in the case of Mr. Lockhart?—Not as far as I have seen; but a good deal would pass with him which I should not see, as to which other members of the duchy would answer more correctly; as far as it went through my hands, I saw none. There was an alteration either in Mr. Lockart's time or just before. There were a great number of forms which Lord Granville Somerset thought very cumbrous, and he altered them, and simplified them.

806. Viscount *Goderich*.] Do you consider that the signature which the auditor attaches to bills and leases, together with your signature, is so attached for the same purpose as your signature, or for any other and different purpose?—For one of the purposes, but not both, I apprehend; it is a voucher that it is in obedience to the minute of the council; but I do not apprehend that the auditor is responsible for the legality of the form; I take it, that I have that additional responsibility.

807. Do you consider that the auditor, not being responsible for the legality of the form, is responsible for anything else, for which you, as attorney-general, are not responsible?—No, nothing occurs to me.

808. *Chairman*.] Is it your understanding that the signature of the auditor is simply a voucher that the transaction is in accordance with the minute of the council?—Yes, that the transaction is in accordance with the minute of the council.

809. Supposing the council to have made a bad bargain, and to have agreed to receive a totally inadequate sum for any land or property of the duchy, should you conceive it to be the duty of the auditor to sign that paper, if he found that it was in accordance with the minute of the council?—Yes, certainly.

810. Have you ever formed an opinion what are the particular duties of the auditor?—I, perhaps, should say I rather form it from the name and from what I have seen him do. Independently of his signing the leases, which is a very slight part of his duty, he would have, I suppose, to take care that every sum carried to the credit of the duchy was properly accounted for by the officer to whom it was entrusted and to see the vouchers.

811. Are you aware that before Mr. Bertolacci was appointed auditor the form

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of what is called a "particular" was gone through?—Yes, it was some time before that, it was in Lord Granville Somerset's time; it was quite a different form.

812. Was the form, whatever it was, pursued during the time that Mr. Bertolacci held the office of auditor, identically the same with that pursued when Mr. Lockhart was auditor?—I think so; I do not think there was any difference.

813. Do you know whether Mr. Lockhart was accustomed to ascertain for himself, as auditor, anything relating to the value of the property sold?—I do not know that: I should be surprised to hear that he did; but I cannot give a positive negation, if I may use the expression. If he happened to have been summoned to the council in which the terms were discussed, then as member of the council, of course, he would assume the responsibility in the advice he gave: but at the same time, if we all of us thought the bargain improvident, the bargain would pass, and the Chancellor would disregard our advice if he thought fit.

814. Viscount *Goderich.*] Do you consider that the Chancellor has the power to act against the advice of the council?—Yes, certainly. I recollect a case in Lord Granville Somerset's time, in which we were all very strong for indulging a claimant in a matter of land between high and low-water mark; and I think all of us thought the decision come to rather harsh.

815. *Chairman.*] Notwithstanding that opinion so given, the Chancellor persisted?—Yes; but I am not speaking from a very distinct recollection.

816. Mr. *Coningham.*] Upon that occasion, however, the council was summoned?—Yes; or else I should not have known anything about it. I must say that my recollection is very vague; but it is my impression that it took place, I am almost sure, in some form or other. I thought we were enforcing our rights very harshly, and I think it was in the council, and I think the council were with me.

817. Before 1844 did the clerk of the council sign the bills for the production of the auditor's particular?—Yes; I think that was taken from the surveyor's account, who is principally responsible for the value.

818. Then the auditor signed without the particular, and in 1855 the clerk of the council was made to sign without the particular?—Yes. I think the Committee will get that much better from other officers of the duchy; but this is my recollection, that the auditor had put into his hands the surveyor's report, and then the minute, and in some way or other he drew up the particular from it, from which the bill was drawn; and then, the auditor having intervened at that step, he did not afterwards sign it, but the clerk of the council and I signed it; and when Lord Granville Somerset did away with the early stages, inasmuch as the auditor had ceased to sign at any other stage, his signature was put at the later stage, and that of the clerk of the council was omitted.

819. The clerk of the council therefore was placed in the position of the auditor?—Yes, before that; I think so; but then the auditor had performed a duty which the auditor coming now does not find performed.

820. Do you believe that the position and duties of the auditor of the duchy of Lancaster are such that if the Chancellor, or the Chancellor and council of the duchy, called upon him to sign, as auditor, a bill which, to his knowledge, was a misapplication of the property, or contained any fraudulent act upon the property of the duchy, he ought, without exercising any judgment in the matter, to sign such bill or other document, because the Chancellor and council had some time made a minute that the auditor was to sign them, on the mere production to him of the minute?—Yes; I have no doubt that, in his pure character of auditor, although he was aware that the Chancellor had either committed a fraud in passing the resolution, or had been imposed upon by fraud, if the Chancellor persisted in the minute, it would be the auditor's duty to sign it; what his next step would be is another question. I presume that a man of honour would not hold his office after that.

821. Viscount *Goderich.*] It has been stated in evidence before this Committee, that two leases were presented for the signature of the auditor in the month of August 1854, and that he considered those leases were very carelessly drawn up; and I think that, subsequently to that, certain changes were made in the form of drawing duchy leases, in consequence of the representation of the auditor; can you give any opinion upon that subject?—No; I have no recollection of the transaction at all. If any officer, through whose hands anything goes, had pointed out

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any error or inaccuracy, we should be all very thankful to him, and glad to avail ourselves of it, though it was not his regular duty to do it; but I do not recollect the transaction at all; I do not think it passed through my hands.

822. We have had allusion made to the bills having reference to escheats, constituting Mr. Danvers sole trustee?—Yes.

823. Has your attention been directed to the evidence given upon that point?—Yes.

824. What have you to say upon that subject?—Mr. Danvers had not the slightest discretion in what he did. The Queen, with the advice of the council, that is to say the Chancellor, or such members of the council as were summoned, would determine how the property was to be distributed. The form of doing that was to put it into the clerk of the council's hands; and he had no choice of any sort or kind.

825. He had no discretion whatever?—Not the slightest.

826. No power of interfering with the rights of the Crown?—Not the least.

827. You are, perhaps, aware that the auditor made an application to be allowed to employ a deputy?—I think I saw that in the evidence; that is the first I saw of it.

828. It was refused; do you consider that the auditor has the right under his patent to appoint a deputy?—I think it is in the patent; he has the right to do any particular thing by a deputy; whether he could appoint a general deputy would be another question.

829. But for a certain purpose could he appoint a deputy?—Yes.

830. You think he had that right under the patent?—Yes.

831. Do you consider that the Chancellor had any authority to object to his employing a deputy?—He would have the authority that any head of an office might have; if he found that the officer under him exercised legal power to the disadvantage of the duchy, he would say, not that he had no right to exercise that legal power, but that, as exercising that legal power in a way which he did not approve of, he chose to change him.

832. It would require that some disadvantage to the duchy should have arisen?—Or would be likely to arise, in the opinion of the supreme officer.

833. *Chairman.*] The office of auditor is held by patent?—Yes, under the seal of the duchy.

834. Is it stated to be for life?—No, during pleasure.

835. Will you read those words in the patent, which limit the continuance of the office?—"To have, hold, enjoy, exercise and occupy, the said office, with the said salary of 200 *l.* per annum, unto him, the said Francis Robert Bertolacci, or his efficient deputy or deputies for whom he will be answerable, during our pleasure."

836. You hold your office under the same terms?—Yes, except that I do not think I can name a deputy.

837. But as to the limitation of the interest it is the same?—Yes.

838. Do not those words mean a holding for life, subject to removal at the pleasure of the Crown?—Yes, a holding till removal.

839. Is not that in official language commonly considered to be identical with holding a thing for life?—Certainly not; it is considered a tenure for life when the words are *quam diu se bene gesserit.*

840. Viscount *Goderich.*] This is *durante bene placito*?—Yes.

841. *Chairman.*] In what manner do you consider that the patent of the office you or the auditor hold can be revoked?—By appointing a successor in the same form.

842. Do you consider that the appointing a successor by a similar patent *ipso facto* is a rescinding of the former patent?—Yes, that is elementary law, I think.

843. Have you known any instance which bears out that view, which have occurred in the office of the Duchy of Lancaster?—No; I recollect no removal at this moment; but that is very familiar law; and I may mention that I think the new grants always do recite the determination of the pleasure, but that for the purpose of determining an old office is superfluous; it is put in under a very technical principle, to show that the Crown is not deceived.

844. The Chancellor being the immediate representative of the Crown, and this particular office being under the seal of the Crown, do you think it is in the power of the Chancellor to remove at any moment either yourself or any other officer

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officer appointed to the duchy?—Yes, the Chancellor has power under his patent to appoint any person or persons whatsoever, the words giving to "the said Edward Strutt, during his continuance in the said office, full power and authority of ordaining, nominating and appointing from time to time in our name any person" (therefore the Chancellor does it in the Queen's name) "or persons whatsoever to the office or offices of stewards, receivers, feodaries, auditors, escheators, coroners, council and bailiffs, and other offices."

845. Mr. *Coningham.*] Is there any authority to dismiss?—No express power, that I find; the power of appointing of course would give the power of dismissing, because the appointment of a fresh person to an office during pleasure does in fact vacate the office. I may just mention this. If the appointment of the new officer is in the same form with the appointment of the previous auditor, then both are good or both are bad; if both are good then the previous auditor is dismissed by the second appointment; but if both are bad then he never was auditor at all.

846. *Chairman.*] Do you give us a legal opinion that the Chancellor did not exceed his power by superseding Mr. Bertolacci in the office of auditor by appointing a successor?—Yes, without any hesitation at all.

847. Does a bill pass the council for the appointment of the auditor?—No, it is not done by bill; the Chancellor makes a warrant and the duchy seal is affixed to the patent.

848. Mr. *Coningham.*] Were not Mr. Bertolacci's remarks on the duchy leases submitted to a committee of the vice-chancellor and the attorney-general, calling attention to certain defects in the drawing of those leases by a clerk of the duchy office?—I have no recollection, but I see I have reported upon it, and this is my report: "We, the undersigned, having been constituted a committee by minute of the duchy court, dated the 14th November 1854, for investigating the forms of duchy leases and reporting our opinion as to any change which may be desirable, report to your Lordship that we have directed our attention to the auditor's remarks of the 21st October 1854, on the draft leases of premises No. 113 and No. 113*a* in the Strand, and to his addenda to those remarks, dated 25th October 1854. We have also given our attention to the council minute of 6th August 1844, which directed certain alterations in the mode of passing duchy leases for the purpose of reducing the number and length of official proceedings on renewals; and we have come to the conclusion that the course prescribed by that minute should still be followed, subject to an alteration in the mode in which the auditor's signature should be affixed to the proceedings. We consider the functions of the auditor, as regards the passing of duchy leases, to consist simply in his having to see that the property demised and the rent and the fine (where a fine is taken) are in accordance with the minute in council. Instead, therefore, of the auditor affixing his signature to the draft lease, according to the arrangement made by the before-mentioned minute of 6th August 1844, and to which Mr. Bertolacci objects as seeming to pledge him to the legal correctness of the document, we recommend that the auditor, after satisfying himself on the points which appear to us to come properly under his cognisance, should annex to the draft his certificate in the following words, *mutatis mutandis*, viz.: "I certify that the property above described and the rent above reserved (and the fine for the renewal, if any,) are in accordance with the minute of court, of the [blank] day of [blank], and that, after such certificate is annexed, the draft be submitted for the signature of the attorney-general in proof of his approval of the legal form of the lease. We are informed that Mr. Whitbread, as the conveyancing counsel of the duchy, has, in pursuance of the minute of the duchy court, dated 27th October 1854, prepared a set of clauses applicable to leases of houses. We recommend that a set of clauses be also prepared for leases of different classes of property, in order that after being approved by the attorney-general of the duchy, and sanctioned by the court, common forms may be printed for general adoption, according to circumstances. With regard to mineral leases, the modes of working mines in different parts of the country are so varied, and the forms of the leases are necessarily also so varied, that we think each mineral lease should be drawn by the solicitor of the duchy, and submitted to the conveyancing counsel before being completed, and receiving the fiat of the attorney-general of the duchy. Dated the first day of December 1854. T. F. Ellis, Attorney-general of the Duchy; W. M. James, V. C. Lanc.

849. *Chairman.*] Have you any further remarks which you wish to address

to

to the Committee?—I wish to state that a good deal of discussion took place as to the meaning of the word "Court." I looked into the matter yesterday, and I thought the Committee might like to know what I could trace in the books. The courts are of two kinds: it is a court wherever the Chancellor sits. There is the Equity Court, which is of two kinds; first of all that of original jurisdiction, which is not often resorted to; the last case was in 1847, I think; then there is the Court of Appeal; that is about equity also, but that is now never used, because the statute of 17th and 18th Victoria, chapter 42, enables the Chancellor and the two Lords Justices to hear an appeal, and in point of fact the appeal is always made in that way practically to the two Lord Justices. I do not think the Chancellor ever sits with them. Then the second kind of court is the Court of Revenue. It is seldom so called, and not so headed; but technically every time the Chancellor sits not in equity I take him to hold a court of revenue, so that all meetings of the council where the Chancellor sits, whether with other members or not, are courts, but not *vice versâ*. Then as to the passage referred to in Lord Coke. If that catalogue which Lord Coke gives of the officers of the duchy court is meant to be a catalogue of persons entitled to attend the council, he is not only wrong, but very absurdly wrong; but of course it is not meant for that; if the Committee will look at the passage it simply enumerates who are the officers of the court. "The officers of this court be the Chancellor, the attorney, the auditors, surveyors, messengers; there is an attorney of the duchy in the Chancery, and another in the Exchequer; there be four learned in the law assistants and of council with the court." That of course cannot be a catalogue of the persons entitled to attend the council, because a great number of them are not so entitled, and never were thought to be so: and in truth I have very little doubt, that here Lord Coke is speaking merely of the Equity Court, because it immediately follows this sentence, "the process is by privy seal attachment, &c., as in the chancery." Then come the officers of the court, so and so. I have no doubt he was thinking of the Court of Equity, and that what he did, when writing this, was to send to the duchy for what the officers of the court were, and they sent him a list. I believe, in point of fact, it would not be a correct list now; some of the officers are not quite the same. I should like to say a word or two as to the new members of the council; that was a step taken by the present Lord Chief Justice of the Court of Queen's Bench, when he was Chancellor of the duchy. I understand that the petitioner suggests that Lord Campbell has made a mistake in point of law; but, as far as I may venture to pronounce an opinion, it seems to me that he was quite right; his patent authorised him to appoint a council. If the Committee will refer to "Hansard," they will see that Lord Derby, then Lord Stanley, questioned Lord Campbell upon the subject of the appointment; and I see, on the 26th of February 1847, there is a long account given of it by his Lordship. It was rather an amusing debate; a question arose whether Lord Brougham knew the difference between lavender and wheat. Then it is suggested, I understand, that the statute of the 18 & 19 Vict. c. 58, was passed to make good this flaw in Lord Campbell's law. Certainly I can say that that could not be so, for more reasons than one. In the first place, I do not think any one of us had the slightest doubt about the law; and, in the second place, if the law had been bad, it would not have been mended in the least by the statute. Then the argument was pressed, that the statute, without that purpose, was superfluous and unnecessary, because it gave no power to the duchy they did not possess before. That is entirely wrong; as wrong as can be. Before that statute, we had only power to sell certain little encroachments, manorial rights to which lands were not attached, fisheries, outlying properties, and several things of that sort; those we had the power to sell under the statute of the 48 Geo. 3, c. 73, which I will take the liberty of reading; this is the last power we had before the statute: "That it shall be lawful for the Chancellor and council of the said Duchy of Lancaster for the time being, to sell and dispose of, to any person or persons, bodies politic or corporate, from time to time, and thereupon to grant and assure in the name of His Majesty, his heirs and successors, under the seal of the said duchy, such manors or lordships belonging to the Crown as are within the survey and receipt of the said duchy as consist of the manorial rights without any lands, or with very small quantities of land belonging to them, and where the greater part of the lands over which the manorial rights extend is the property of individuals, and of manors or lands of which His Majesty, in right of his duchy as aforesaid, is not the sole

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proprietor, but is entitled to an undivided share jointly with individuals, and intermixed with the property of individuals, and lying remote from other property belonging to the Crown, and of ground or building appertaining or anciently held with any castle or strong building now or lately used for a common gaol, or with any building used for holding the assizes or sessions in any county or district, or for the court house or gaoler's house, or in which the magistrates for any county or district may claim to have rights from the length of use or enjoyment for the public purposes of such county or district, and of tithes belonging to the Crown within the survey of the said duchy aforesaid, issuing out of lands which are the property of individuals, and of mills, fisheries, ferries, tolls, and stalls of markets and fairs, and wastes belonging to the Crown within the survey of the duchy aforesaid, upon or from which usurpations or encroachments have been made by individuals for the best prices" that can be got; and then there are directions how the purchase-money was to be applied. That was the extent of our power, except that occasionally in railway and canal bills, special powers were given, as to the Crown; to sell the property, that was done in bills local and personal. But it was found occasionally that it was very important we should have greater powers than that. If you had a coal mine, for instance, and another coal mine was adjacent, each coal mine is of much less value to the owner of course than the two would be, if belonging to a single owner; and, therefore, it was important that we should be able to buy one or sell the other. A great many similar instances will occur to the Committee; and, therefore, finding that the Woods and Forests had a much larger power than we had, we inquired of the Woods and Forests what they had done, and whether they had found it advantageous; and then that took place which will be read from the minutes. "28 November 1854. Present, the Chancellor." This was a council (at which the Chancellor only was present). "Duchy saleable property. Mr. Legard, the surveyor-general of lands and woods, attends the court and receives instructions to report as to all the property of the duchy which could be advantageously disposed of under the existing powers of sale. The solicitor" (that would be Mr. Walford, the solicitor of the duchy) "is also instructed to consider what terms could be made with auctioneers for the sale by auction of duchy properties, when considered desirable to adopt that mode of sale, and it is ordered that inquiry be made of Mr. Gore, the Chief Commissioner of Her Majesty's Woods, &c., whether the powers of sale vested in the Commissioners of that department have been found sufficient and have proved beneficial to the Crown property." The date of the next minute which I am about to read is Monday, 11th December 1854: "Present the Chancellor" (that was a case in which the Chancellor was the whole council.) "Read a letter, dated the 1st instant, from the Honourable Charles Gore, Chief Commissioner of Her Majesty's Woods, &c., stating in reply to an inquiry directed to be made to him by minute of council of the 28th November 1854, that the powers of sale vested in the Commissioners of Woods, under the 18 Geo. 4 c. 50, have been found sufficient, except that it has since been found desirable to empower the Commissioners of Woods to make conveyances subject to conditions, the non-performance of which by the grantees will render the deed void, adding that the powers of sale and exchange have proved most beneficial to the Crown property." In consequence of that, directions were given to prepare the Bill, and it has passed; and that is the history of that Bill.

850. *Chairman.*] Do I rightly understand you to say, that the Act of the 18th & 19th of Victoria, which has been referred to, gave you certain powers of selling and buying the duchy property, which you had not under the former Act of the 48th of George the Third, and which was analogous to the powers possessed at that time, and found very useful by the Woods and Forests?—Yes, and which we had found we wanted. I observe that the petitioner in his evidence calls the duchy a palatinate. The duchy has, among other properties, the county palatine of Lancaster, but that is only one of its properties, just as the Savoy Lete is one of its properties. The duchy might just as well be called an Electorate. There is another matter to which I should wish to refer; it is mentioned in the petition that the case of the question as to the goods of intestates in the county palatine had cost 10,000 *l.*, which might have been avoided by a conference between two Cabinet Ministers, if it could not have been settled by an Act of Parliament. It is stated to be 10,000 *l.* "on excellent authority." I find that the law costs were 1,797 *l.*, of which 700 *l.* were paid back

back in the proceeding (I do not know what the authority was of course), and what was got by the case by that result has been worth a great deal more to us than the odd 1,100 *l.* already. I should wish just to explain to the Committee what the history of that case was. The Queen has a right to the real property, by way of escheat, of persons who die without heirs, which is the ordinary case of an illegitimate who has acquired property, and has not married; but it was disputed whether the Queen had a right in the same way to the personalty of intestates; and it became a question of a good deal of importance, as was pointed out in the judgment in the Court of Queen's Bench in the case of Gorham *v.* the Bishop of Exeter; and some time back, in consequence of the difficulty that there was in making a title, the present Lord Chief Baron, then Attorney-general to the Crown, spoke to me or I to him, I forget which; but we had a conversation, and we agreed that the best plan would be, as I could not persuade him nor he me, that on the very first occasion that presented itself we should take the matter up to the final court of appeal, that is, the Judicial Committee of the Privy Council, and there get it settled once for all, which would enable either party to have the title that was in the right. That was done. The first case was when the late Sir John Jervis was Attorney-general; that was the case of Dyke *v.* Walford. We should have been exceedingly glad, either that the Cabinet Ministers should have settled it, provided they settled it in our favour, we believing ourselves to be in the right, or to have had an Act of Parliament, provided it was passed in our favour; but as the Treasury thought that we were in the wrong, they did neither, and we carried the case, therefore, to the Privy Council; and there was a very learned judgment given by Mr. Pemberton Leigh, deciding the case in favour of the duchy. I do not think that we can be found fault with, because the other party would not give way to us, nor give an Act of Parliament; we had then nothing for it but to vindicate the rights of the privy purse of Her Majesty in right of her duchy. But if the First Lord of the Treasury, or the Commissioners of the Treasury, would have given us up the point, we should have been happy to settle it without going into court.

851. *Chairman.*] Do you think that the litigation, in the case to which you have now referred, could have been avoided by an adjustment between two Cabinet Ministers?—If the Treasury would have given way to us.

852. Supposing the result of that conference had been that the decision was against you, should you have thought it your duty to advise Her Majesty to carry the matter to a court of law?—If the Cabinet Minister had been the Chancellor of the Duchy of Lancaster, and he had agreed, I should have submitted.

853. Do you think that it would have been an improper thing for the Duchy of Lancaster to have given up its claims without an appeal to law?—I think we must have yielded if the Chancellor had chosen to do so; but I think that it would have been a very improper step on the part of the Chancellor. When Lord Campbell was Chancellor, of course he was an infinitely better lawyer than I, and he might have said, "I shall disregard the opinion of the attorney-general."

854. You think that it was a matter of so much importance, that unless you could have got a compromise upon the other side, you should not have advised to give it up?—Certainly, and the event showed it.

855. Do you not think that, considering the circumstances of that case, that the mode resorted to, of an action at law, was the best course that could have been pursued?—It was the only one that could have been pursued, in my opinion, unless we had persuaded the Treasury to give way.

856. Viscount *Goderich.*] Was not it more satisfactory than a mere compromise between two individuals?—Yes, much more satisfactory, for a compromise must have ended in an Act of Parliament. Supposing there had been a compromise between any two Ministers that the Treasury should give the title, and subsequently a party had claimed through the grantees of the Treasury, it was competent to an opposing party still to dispute it. The compromise to be effectual must have been followed by an Act. The case is settled now.

857. *Chairman.*] Are you of opinion that if any one says that the expense of that litigation "might have been avoided by an adjustment of the question at a conference between two Cabinet Ministers, namely, the Chancellor of the duchy and the First Lord of the Treasury," he is mistaken?—He is mistaken, unless it was a more reasonable Lord of the Treasury than I found. The Treasury were

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advised both by Mr. Maule, the very able Solicitor to the Treasury, and by the counsel to the Crown.

858. Viscount *Goderich.*] Was not the First Lord of the Treasury at that time Sir Robert Peel?—Yes, I think he was.

859. Mr. *Coningham.*] Before the Act of the 18th and 19th of Victoria, did not the Chancellor of the duchy sell duchy property, not encroachments?—Not property which did not come under some of those heads which I mentioned before; in fact, we could not give a title. I recollect repeatedly before this Act passed it was a common thing enough at the council to say, "Can we sell this?" and then my learned friend and myself would look at it and say, "No, we think it is too large to be sold under the powers of the 48th of George the Third;" it exceeds the powers of that Act; and that was very dangerous, because the title which we gave might have been impeached afterwards, if we exceeded our powers.

860. Under what Act were the sales to the Duke of Newcastle made?—Probably under the old Act; but the date will tell.

861. At what price?—£.4,219. 6. 6.

862. Was not the court of Wards and Liveries formed after the fashion of the court of the Duchy of Lancaster, and was not the auditor of the court of wards a judge of that court?—We considered that; and I think we thought that the major and minor premises both of the argument there failed; I think we thought that the analogy was not close enough to act upon, and we thought that if it were acted upon it would not give the auditor the right of sitting in the council.

Francis Robert Bertolacci, Esq., called in; and further Examined.

F. R. Bertolacci, Esq.

863. Mr. *Coningham.*] WILL you state upon what authority the second paragraph in your petition relating to this lawsuit which has been referred to is founded?—The authority upon which I stated that was Mr. James Freshfield, the solicitor to the Bank of England. I went to him in the month of May 1855, with my patent, to ask him whether the Chancellor of the duchy had any right to displace me from the office of auditor when he made an attempt to do so. Upon that occasion, his answer upon that subject was, "Not unless he has the Queen's Sign Manual." It was on the occasion of my going to Mr. James Freshfield for that purpose that he told me that when he was at York some 15 years before, he witnessed a lawsuit which must have cost the Crown at least 10,000 *l.*, because it was carried from court to court, until it could not be carried any further. I wish to state this, that the Committee may have before them the evidence upon which I have made that statement. Mr. James Freshfield is since dead; therefore I cannot call him in evidence; but at the time that I inserted those words in the petition he was alive, and the petition with that paragraph inserted in it, was given to the honourable Member for Stafford, who was going to present the petition at that time. I merely mention that to show that it was not put in after Mr. Freshfield's death, but before his death.

Thomas Flower Ellis, Esq., called in; and further Examined.

T. F. Ellis, Esq.

864. *Chairman.*] CAN you give the Committee any more particular information with regard to this subject?—I have very little doubt, from what Mr. Bertolacci says Mr. Freshfield said, it must have been quite another case. There has been only one case tried at York, which was the question whether the Queen had the right to appoint a coroner to the honor of Pontefract, and that case we fought for two days. As to going through a great number of courts, the action was brought in the Exchequer; we obtained a verdict; they moved to set it aside, obtained a rule nisi, and the Court afterwards discharged that rule. That was all that took place. It was not a question that two Cabinet Ministers could have settled, because no Cabinet Minister appeared against us.

865. Viscount *Goderich.*] What was the cause of that action?—An action was brought for money had and received in the shape of fees by a coroner who had intruded; we tried the case before Lord Denman, and obtained a verdict; they moved for a new trial on the ground of misdirection, and on one or two other points; they obtained that rule nisi, which we discharged.

866. Can

866. Can you state the cost of that case?—I cannot; I should not imagine that it could have been 10,000*l.* *T. F. Ellis*, Esq.

867. Was it anything like 10,000*l.*?—I do not think it could have been; I am sorry to say that I got a very small portion of it, if it was. 10 July 1857.

868. Were you counsel in the case?—I was second counsel; the present Mr. Justice Cresswell was senior counsel; my juniors were the present Baron Martin, and the late Mr. Frederick Robinson. In the case of Dyke *v.* Walford, there was a short proceeding at York, and it could never have become public; it was a formal proceeding from the Chancellor of Chester to the Chancellor of the province of York, and it was over in two or three minutes. We succeeded in the action with respect to the coroner, and we made the other party pay us our costs; the West Riding paid the costs, in fact. Mr. James Wortley proposed at the sessions that the riding should undertake the defence of the county coroner, which they did, and they had to pay us accordingly.

William Milbourne James, Esq., called in; and Examined.

869. *Chairman.*] WHAT is your office in the Duchy of Lancaster?—I hold the office of Vice-chancellor of the County Palatine. *W. M. James*, Esq.

870. How long have you held that office?—Since January 1853, I think.

871. Are there any points which you have heard or read in the evidence given before the Committee by Mr. Bertolacci, or by the attorney-general, upon which you wish to afford information to the Committee?—I only know what has occurred from the evidence of the attorney-general, for I have not read the petition; I have been here during the examination of the attorney-general, in which he has referred to many matters to which both he and I were parties. We both considered the question as to the right of Mr. Bertolacci to sit in the council, and I fully concurred with him that Mr. Bertolacci had no right whatever, and we so advised the Chancellor. I may say that I do not know that my opinion was formally taken upon it, but in conversation with the succeeding Chancellor, Lord Harrowby, I certainly gave it as my very clear opinion that there could be no question whatever as to the right of the Chancellor to remove Mr. Bertolacci from the office of auditor, if he thought fit so to do.

872. Lord *Harry Vane.*] You confirm the legal opinion of the attorney-general?—Yes.

873. Viscount *Goderich.*] Do you agree with the opinion of the attorney-general that no one has a right to sit in the council?—Yes; it is exactly analogous to the Privy Council, no person has a right to sit there, except he is summoned by the Queen; and no one has a right to sit in the council of the duchy except he is summoned by the Chancellor to give him advice. If the council is supposed to consist merely of the officers who have been mentioned, and they were the members of the council, I could myself have no right to sit; I am merely summoned to assist the Chancellor, and take my seat as one of the council, at the pleasure of the Chancellor.

874. *Chairman.*] In the case of a council being held, and you receiving no summons, should you attend it?—Certainly not.

875. Lord *Harry Vane.*] What is your salary?—£. 600 a year.

876. Viscount *Goderich.*] You formed one of the committee which sat upon the subject of duchy leases?—Yes.

877. Can you give the Committee any information upon that subject?—Some observations were made by Mr. Bertolacci, which I thought well founded, with regard to the forms of the leases. There were some antiquated forms copied by the clerk in the office; they were not drawn by him, but he had adopted some old forms, to which there were some objections, and Mr. Bertolacci drew the attention of some members (I do not know whether it was Mr. Danvers who mentioned it to us, but somebody connected with the duchy) to the inaccuracy of the forms of those leases, and I thought it right to consider them, and I think it was at my suggestion that the matter was referred to a committee, consisting of two legal members, the attorney-general and myself, and we made a report upon the subject, in which we recommended that the conveyancing counsel should be instructed to prepare new forms of leases.

878. You thought that Mr. Bertolacci's observations were reasonable?—Yes, reasonable and well founded, no doubt.

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879. Do you confirm the evidence of the attorney-general with regard to the Act of Parliament which has been alluded to?—I may say, with regard to this Act of Parliament, that I believe it was at my suggestion that it was applied for. I happen to be very much employed as counsel for the Woods and Forests, and I was aware of their powers under their Acts of Parliament; and I mentioned them at the council more than once, when difficulties and questions arose with regard to our powers under our Acts of Parliament; and in consequence of that, the proceedings began for making our Act of Parliament analogous to those of the Woods and Forests. I wish to state that, during the time of Lord Granville's chancellorship, a very important question arose before the council of the duchy with respect to the renewal of a lease to him of some very extensive coal and iron mines in Staffordshire. There was a question with regard to the extension of the term, and with respect to the extension of the taking. The lease had originally been granted to his father. Lord Granville entered a minute on the subject soon after he was appointed Chancellor. The matter had been in course of discussion before he was appointed Chancellor. The minute was, that considering his position, he would take no part in any discussion with respect to the matter. Then there was a meeting of the council, the exact date of which I do not recollect, at which Lord Granville was not present; and it was suggested that we had no powers at all unless some particular powers were delegated to us by Her Majesty to enter upon the subject, and in consequence of that a warrant under Her Majesty's sign manual was issued, appointing me as vice-chancellor of the county palatine, to act as pro-chancellor in all matters connected with the renewal and extension of the lease to Lord Granville, and in consequence of that all the matters connected with the lease were transacted without the slightest communication whatever with Lord Granville. I presided at all the meetings of the council on the subject. Lord Portman, Lord Hardwick, and Mr. Strutt, now Lord Belper, I think, attended almost all the meetings, and also Colonel Phipps, who, I may say, was considered more particularly to represent the pecuniary interests of Her Majesty, and in order that there might be no question with respect to Lord Granville's position, we agreed that we would not rely upon the ordinary surveyor of the duchy, who might be supposed to be under the influence of the Chancellor; but at the recommendation of either Lord Portman or Lord Hardwick, gentlemen wholly unconnected with the duchy, mineral surveyors were appointed, whose reports were received from time to time. We had meetings with Lord Granville's auditor, Mr. Lowndes, who acted upon his behalf, and we had communications with him, and the result was that he accepted our terms for the renewal of the lease, but refused our terms for the extension of the taking; and I must say that I do not think that Lord Granville received any favour or affection from the council. The point upon which the refusal took place was this; we insisted upon having a new dead-rent for the new taking, and he wished to add it to the old; he was willing to increase the minimum rent, but we thought that we were gaining nothing unless we obtained a new distinct minimum rent upon the new taking, and the consequence was that he got the renewal of his lease, but did not get the extension of the taking.

880. Mr. *Coningham.*] I understand you to agree with the attorney-general in the opinion that the Chancellor was competent to act without the council. I am led to conclude from the evidence which you have just given that the council is competent to act without the Chancellor?—No; I do not think so at all. On the contrary, we did not act without special authority.

881. *Chairman.*] In case of the absence of the Chancellor, as in the case last-mentioned, do you not think it necessary that he should be represented by a Chancellor *pro hâc vice*, appointed for that purpose?—The Chancellor has the power of appointing a vice-chancellor either for the duchy or for the county palatine. The patent of the Chancellor enables him to appoint a deputy for either. I act as his deputy in the county palatine.

882. Lord *Harry Vane.*] As the Committee understand there was a special warrant in this case under Her Majesty's sign manual, in consequence of the peculiar circumstances of the case, that Lord Granville was an interested party, being the Chancellor for the time being, authorising the duties to be performed by a person unconnected with Lord Granville?—Yes, the words are, "We authorise and empower, so far as we legally can or may, our trusty and well-beloved William Milbourne James, one of our counsel learned in the law, and vice chancellor of our said county palatine of Lancaster, for us and on our behalf,

behalf, to advise and determine in respect of any matter or thing relating to or affecting the interests of the said Earl Granville, as such lessee as aforesaid," and so on. *W. M. James*, Esq. 10 July 1857.

883. Viscount *Goderich.*] Then you do not consider that that establishes any precedent for the council acting without the Chancellor in ordinary cases?—No; in point of form, if the lease had been granted in Lord Granville's time, he must still have given the authority for affixing the great seal of the duchy to it; but he was in that position that it was necessary that there should be some person wholly unconnected with him, to advise in the matter.

884. Then you do not think that the council can act without the Chancellor?—Certainly not; the council are simply his advisers.

885. And he can take or reject their advice as he pleases?—Clearly.

886. Mr. *Coningham.*] Before that warrant was issued to the council, might they act?—No; Lord Granville left the room, I think, leaving the council together, and we then considered that we could do nothing, because our only constitutional function was to advise him, and unless we received some special authority from Her Majesty, we had no right whatever to enter upon the subject; that we should be doing it only at his request, and that the same weakness would attach to all the proceedings done at his request, as if he had been present.

887. *Chairman.*] Were you acquainted with the intention to appoint Mr. Bertolacci as auditor, with altered powers?—I was aware of the intention to appoint Mr. Bertolacci with an altered position, as auditor; I was in communication with Mr. Strutt upon the subject, and I advised him that it was in the power of the Chancellor to impose such a condition upon the appointment of the auditor, and that it would not be necessary to apply for any Act of Parliament, or anything else.

888. Lord *Harry Vane.*] You gave him a legal opinion to that effect?—I was not consulted formally upon the subject; I, as vice-chancellor, and one of the council, gave him that opinion upon his asking me my advice. I think that when he spoke to me, it was not intended to appoint Mr. Bertolacci; but he was considering about the appointment of Mr. Bromley to the office, and I think that it was with reference to the appointment of Mr. Bromley that the conversation between us took place.

889. Viscount *Goderich.*] Then that conversation had no connexion with Mr. Bertolacci?—Not at all; it had nothing to do with Mr. Bertolacci personally, it was simply with respect to the office, Lord Belper communicated to me his opinion that the office of auditor had been rather a formal one hitherto; and that the proper course was to have an accountant who could and would do accountant's business. I understood that he was then about to appoint Mr. Bromley, who is a very efficient accountant; and it was thought that taking a person in a public office, a reduced salary would be sufficient, and that it was not necessary he should be a member of the council.

890. When you had that conversation with Mr. Strutt, did you know anything of Mr. Bertolacci?—No.

891. Had you ever heard of him?—No.

892. Mr. *Coningham.*] Can you assign any reason why the auditor should for the first time in 1854 be excluded from the council?—It was intended to make an entire change; it was intended to have an efficient clerk to do a clerk's work, and a clerk was to be appointed.

893. Do you think that his exclusion from the council was calculated to increase his efficiency as auditor?—It seems to me to have nothing whatever to do with his efficiency as auditor; an accountant may be a very good accountant, and very well fitted to check accounts; but that is no reason why he should be summoned as a member of the council of the duchy.

Frederick Dawes Danvers, Esq., called in; and Examined.

894. *Chairman.*] WHAT is your office in the Duchy of Lancaster?—That of Clerk of the Council. *F. D. Danvers*, Esq.

895. How long have you held that appointment?—I think since the year 1827.

896. Were you made acquainted by Lord Belper, with his intention to appoint

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Mr. Bertolacci to the office of auditor?—Yes; I was necessarily made acquainted with it, because I received from him the warrant for his letters patent.

897. Did you upon Mr. Bertolacci's application, give him any account of the antiquity or nature of the form of oath?—Yes, I think I did; I told him it was taken from a book of antiquity in the office of the duchy, called the Little Coucher Book.

898. Was the oath which you administered to Mr. Bertolacci upon his appointment, the same oath which had been administered to former auditors?—Yes it was.

899. Mr. *Coningham*.] Did not Lord Belper say that he had acquainted Mr. Bertolacci that he would not be required to attend every meeting of the council, because there was a doubt upon the subject whether or not he would be a member of the council by reason of his office?—Yes, I have a pretty distinct recollection that he said so.

900. Lord *Goderich*.] Are the Committee to understand that Lord Belper tol you there was a doubt as to whether Mr. Bertolacci was a member of the council in virtue of his office?—I think that doubt existed in Lord Belper's mind, and therefore not intending that Mr. Bertolacci should be summoned to the council, the minute was worded in the way which would have been seen by the Committee had I put in the copy of the minute.

901. *Chairman*.] Was that statement of Mr. Strutt's that Mr. Bertolacci would not be required to attend the council except when he was summoned, made privately, or in your presence when he was sworn in?—When he was sworn in.

902. Have you the minute recording that fact?—Yes.

903. Lord *Goderich*.] Is that a minute of the council?—It is what is called a council minute: the Chancellor only was present.

904. *Chairman*.] Will you be kind enough to read it?—"Monday the 15th day of May, 1854. Present, the Chancellor. Mr. Francis Robert Bertolacci being this day appointed auditor of the duchy during Her Majesty's pleasure, in the room and place of Mr. Lockhart, resigned, at a salary of 200*l*. per annum, is this day sworn in, the oath of office of auditor entered in the little cowcher book being administered to him in the presence of the Chancellor; Mr. F. R. Bertolacci having been informed that he will not be required to attend the meetings of the duchy council, unless specially summoned thereunto on business connected with his said office."

905. Mr. *Coningham*.] Was not the granting of bills part of the duties of the auditor's office?—No, the signing of bills.

906. *Chairman*.] What was the duty of the auditor in respect to the passing of bills, before the change that took place in the year 1844?—I think that will be best seen by putting in a copy of the minute which was made in Lord Granville Somerset's time: "Tuesday, the 6th day of August 1844. Present, the Chancellor. The Court enters into the consideration of the length of the official proceedings with respect to the granting of patents of offices under the duchy seal; also with respect to grants in fee and the renewals of leases; and it appears to the Court that the number of documents in each of these cases may be decreased without detriment to Her Majesty's service, while much time and labour may be thereby saved in the office, and (in the cases of patents of offices for life, and of members of the council, and of grants in fee) some trouble to the Sovereign. It is therefore ordered, that with respect to the proceedings on granting patents of offices for life, and of members of the council, instead of the warrant for a particular issued by the Chancellor, the particular prepared by the auditor, with the warrant (subscribed thereto) for the patent, signed by the Chancellor, the Royal sign manual warrant for the bill, the Chancellor's warrant to the attorney-general and clerk of the council to prepare the bill, the bill for the Royal sign manual prepared by the attorney-general and the clerk of the council, and the patent, the following forms be adopted; viz., Chancellor's warrant to the attorney-general and auditor to prepare the Bill, the particulars of the office to be set forth in this warrant; the bill for the Royal sign manual, subscribed by the attorney-general and auditor, and lastly countersigned by the Chancellor, to be the authority to the clerk of the council to draw the patent in conformity with the bill;" thus reducing the variety of forms to a comparatively small number. Then, "That with respect to patents of offices granted during pleasure, instead of the warrant for a particular issued by

by the Chancellor, the particular prepared by the auditor, and the warrant for the patent signed by the Chancellor, the following form be adopted; viz., a warrant to be signed by the Chancellor, directing the letters patent to be prepared to pass the seal, the particulars of the office being set forth in such warrant. That with respect to the proceedings on grants in fee, instead of the warrant for a particular issued by the Chancellor, the particular prepared by the auditor, with warrant (subscribed thereto) for the grant signed by the Chancellor, the Royal sign manual warrant for the bill, the Chancellor's warrant to the attorney-general, and clerk of the council to prepare the bill, the bill for the Royal sign manual prepared by the attorney-general and the clerk of the council, and the grant, the following forms be adopted; viz., a minute of court signed by the Chancellor directing the bill to be prepared, and stating the terms for the grant; the bill for the Royal sign manual subscribed by the attorney-general and auditor, and lastly countersigned by the Chancellor, and the grant to be drawn by the clerk of the council conformably with the bill." Then with regard to leases for years, there is also this: "With respect to the proceedings on the renewals of leases for years, instead of the warrant for a particular issued by the Chancellor, the particular prepared by the auditor, and the warrant for the lease, signed by the Chancellor, the following forms be adopted; viz. a minute of court signed by the Chancellor, deciding on the renewal and the terms, which minute is to authorise the draft lease to be prepared. The draft lease when prepared, to be submitted to the auditor, and afterwards to the attorney-general, and when approved and signed by them, to receive the fiat of the Chancellor, which is to be the authority for the clerk of the council to have the lease engrossed to pass the duchy seal, and to be enrolled by the auditor." Then it goes on to state from what period the proceedings shall take effect.

907. Is the result of that minute to put an end to the warrant for particulars?—Yes; it puts an end to the warrant for the particular, the particular, and the warrant for the Bill.

908. Does it substitute for that a minute of council deciding the forms?—Yes, upon receiving the valuation of the surveyor-general.

909. Mr. *Coningham.*] When you use the term council there, do you mean the council or the Chancellor and council?—Whether the Chancellor is attended by the council or not it is still termed a council minute.

910. *Chairman.*] Was the result of that minute to render it necessary that the auditor should have access to the minutes of council under which the transaction was drawn out?—Yes.

911. Before Mr. Bertolacci's appointment, Mr. Lockhart being the auditor, and also being a member of the council, had access to the minute book of the council?—Yes.

912. And very probably was present when anything was agreed upon?—He might, or he might not be.

913. When Lord Belper informed Mr. Bertolacci that he would not have a seat at the council except when he was summoned, did Lord Belper, either to Mr. Bertolacci or to you, give any directions for the supplying to Mr. Bertolacci of that sort of information which his predecessors could obtain for themselves, namely, access to the minutes of the council?—I do not think that question arose; but it is quite clear that Mr. Bertolacci would have access to the minutes of council upon such matters as related to his official duties; that was never declined.

914. The evidence of Mr. Bertolacci leads us to understand, that at the first commencement of his exercising the duties of his office he found a difficulty in obtaining access to the minutes of the council; have you any information to give us upon that point?—I recollect Mr. Bertolacci applying to have access to the minute books, and I said I could not show them without authority. Anything relating to his duties as auditor that he might require, in going through the accounts of the duchy, was of course open to him, but I had no authority to give him free access to the minute book at that time. I afterwards had the authority of the court to do so on the following November, when that was done, and a communication was made to him accordingly.

915. Did not some time, namely, three or four months, elapse between the application of Mr. Bertolacci to have full access to the minutes and the meeting of that council, when free access was granted?—Yes; but in August previous to that, a letter which has been put in, was written to Mr. Bertolacci, repeating what

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had already been made known to him, namely, that he might have access to the minutes upon such matters as related to his official duties.

916. Lord *Goderich.*] Do you consider that Mr. Bertolacci had always access to those minutes which were necessary, in your opinion, for the discharge of his official duties?—Decidedly.

917. Do you consider that the practice of having a particular drawn up by the auditor, implied that the auditor exercised any kind of supervision or incurred any responsibility as to the value for which the property was disposed of?—I think not, and in the whole course of my official experience, I never recollect the valuation of the surveyor being disputed by an auditor. In the particular, after stating the premises that were to be granted, the value put upon those premises by the surveyor was set forth, and upon that the auditor recommended the lease or the grant in fee to be made. The Chancellor then issued a warrant for the lease or the grant, or the bill as it might be, and it was not the particular, as stated in the evidence, which was the authority of the clerk of the council to draw the bill; it was the warrant of the Chancellor that gave this authority.

918. Could you put in a particular?—Yes; this (*producing the same*) is the old form.

919. *Chairman.*] Referring to the period which elapsed between Mr. Bertolacci's appointment, and the month of November 1854, when access to the minutes was formally granted to him, do you know whether any bills or leases were submitted to him as auditor for his signature?—I think very likely; I think he has stated so in his evidence.

920. Is it your impression that during that time access was granted to him to the minutes of the council to such an extent as afforded him all the information that he would require before he signed those bills?—It certainly would be if he applied for it; and I should think myself very unworthy of office if I declined to show him those minutes, which would have enabled him to see that the documents submitted for his signature, were drawn in conformity with the minutes of council.

921. Is it your impression that there was any material difference with regard to access to the minutes of the council between the period before November 1854, when a formal minute to that effect was passed, and subsequently?—Yes; I think there was, because the minute of November 1854 gave him free access, and gave him the power of ranging all through the minute book, but I think he had quite enough before for the performance of his duties, quite access sufficient for that.

922. Lord *Goderich.*] I see that this particular which you have handed in concludes with these words: "I am humbly of opinion, that as the said allotment lies remote from other property belonging to Her Majesty in right of Her duchy, it will be fit and proper to grant the same in fee, and more beneficial to do so on payment of the said sum of 230*l.* 10*s.* 8*d.* than to retain the land, and let it at any rent which could be procured for it;" does not the auditor, in signing a particular of that description, express an opinion that the value set upon the land is sufficient?—Yes, I think he does.

923. When that particular was abolished, and the other mode adopted, do you consider that the auditor was still held by the signature that was substituted for his signature to the particular, to express the same opinion as to the sufficiency of the price at which the land was sold, or of the rent paid for it?—No, I think not.

924. *Chairman.*] Do you consider that the practical effect of the alteration of 1844 was this, that whereas before the particular expressed an opinion of the auditor as to the sufficiency of the sum, subsequently to that date he was relieved from that responsibility, and was simply directed to follow the minutes of the council?—Yes; I do not think that there was much responsibility in the former case, inasmuch, as a matter of form, after the valuation of the surveyor had been laid before the auditor, he recommended that the grant should be made; it was upon that valuation. I never knew a valuation of a surveyor disputed by any auditor before.

925. Mr. *Coningham.*] At the change in 1844, the auditor signed, instead of the clerk of the council, at which time the auditor's particular was discontinued?—Yes; I may be allowed to explain that I think that when Lord Granville Somerset made that alteration, he took upon himself a greater responsibility, perhaps, than existed before. Thinking it a mere form that the surveyor's report should be referred to the auditor, he took upon himself, as Chancellor, to decide

decide whether the grant should go on upon the terms recommended by the surveyor's report, the auditor's particulars was really almost a matter of form.

926. *Chairman.*] Is not your answer an answer to my former question, that the practical operation of the change of 1844 was to relieve the auditor of certain responsibility, and to throw it upon the Chancellor?—It did relieve him of a small responsibility.

927. Is not that what you mean when you say that Lord Granville Somerset took upon himself a greater responsibility than he had before?—I think that the Chancellor was always responsible for any grant that took place; previously he proceeded upon the recommendation in the auditor's report; he afterwards proceeded upon the valuer's report.

928. In what form are the minutes of the council kept?—I am very glad to have an opportunity of explaining that, because it has been stated that they were shown to Mr. Bertolacci on loose sheets of paper; I have brought a few minutes with me. Draft minutes are first made of course; they are then fairly copied and signed by the Chancellor, and they are then entered in what is called the minute book; so that when Mr. Bertolacci says that loose sheets of paper were shown him which did not refer to previous minutes, it merely amounts to that. If he had referred to the minute book itself he would have seen the previous minute, and he was quite at liberty to do so; but on a previous occasion he had objected to the minute book, because he felt that there was no proof that the minutes were faithfully entered; therefore after that the minute with the Chancellor's signature was submitted to him, and these are the loose sheets that he refers to. I may state here that Mr. Bertolacci (and I think very likely with some reason) objected on one occasion after I laid before him a bill for signature that he had not seen the minute fairly drawn with the Chancellor's signature; he did not choose (and he was quite justified in doing that if he thought proper) to take my word that such a minute had passed, and that the Chancellor had given me authority. I had only one reason for submitting the bills to him before I got the Chancellor's signature to the minute, which was that the progress of the business might not be impeded; I could have no wish to do otherwise than submit to Mr. Bertolacci every authority for laying bills before him.

929. Do I rightly understand you that the loose sheets which have been referred to in the evidence were in fact the original minutes signed by the Chancellor?—Yes.

930. And that those minutes were subsequently entered into the book?—Yes.

931. And were the minutes in the book kept continuously council after council in regular order?—Yes, decidedly.

932. Might any person looking into that book, and reading the minutes of a council at any particular date, ascertain what were the minutes of the council that passed before by turning back to the minute?—Yes.

933. Had Mr. Bertolacci access if he pleased to this minute book?—Yes.

934. From the date of November?—Yes.

935. Viscount *Goderich.*] It has been stated that the minutes of the previous council are not confirmed at the next council; is that correct?—Quite correct; and I think that may be explained by the evidence that has already been given by the attorney-general of the duchy, that it is not necessary to convene the council for every matter which is brought before the court; in speaking of the court, I am speaking of the Chancellor.

936. *Chairman.*] Do you hold the same opinion which has been expressed by the attorney-general and by Mr. James, that the Chancellor and council are in fact the Chancellor alone, and such persons as he from time to time may choose to summon?—Yes, in this way, that the Chancellor has supreme power in the management of the duchy affairs, and that the usual mode of expression is "the Chancellor and council." It is the same with many other boards, I fancy.

937. Turning to these minutes, I observe that almost invariably the only person stated to have been present is the Chancellor; is that the fact?—In most cases you will find it so; but I think you will find several also where the council assisted.

938. Viscount *Goderich.*] The Committee are to understand that every minute is entered in that book?—Every minute.

939. And that consequently, if Mr. Bertolacci had free access to that book,

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he would have free access to all the minutes that had been passed?—Yes, precisely.

940. With, however, this exception, that there is no authentication of the signature of the Chancellor in that book?—It is merely a copy.

941. Mr. *Coningham.*] As the auditor is called upon to vouch for the value of the property bought or sold, and as important discussions with reference to the sale of land took place at the council, do not you consider that it was a very objectionable system by which he was excluded from that council?—I do not think that the auditor has to vouch at all for the value of the property; I cannot find that he has; that is evidently the impression of the late auditor, but I do not believe any one else so considers it.

942. *Chairman.*] Is it your opinion that it is part of the duty of the auditor to satisfy himself as to the sufficiency of the price to be paid upon either a bill or a renewal of a lease?—No; and I think that much inconvenience might arise from his hesitating to adopt a surveyor's valuation, who must of necessity know a great deal more of the value of the property which he has to inspect and which he has inspected, than an auditor who is sitting at the table in London.

943. Is it your opinion that the office of auditor is sufficiently filled, if the auditor satisfies himself that the bill or lease is in conformity with the minute of the council, and that the valuation of the surveyor is truly stated in that minute of council?—I think so, and I think that that is the extent of his responsibility.

944. Do you then confine the duty of the auditor, according to your understanding of it, to what is commonly called an audit of account, that is to say, seeing that the accounts are truly carried out, and the balances properly made out, after the transactions have taken place?—Quite so as regards matters of account; but I think the auditor is a ministerial officer, who is bound to attend to any references which the Chancellor may make to him.

945. Mr. *Coningham.*] When the auditor was required to sign the body of the bills for grants in fee of the duchy property, in which bills the Queen was advised to part with portions of her duchy inheritance for sums stated in such bills to be the best price and consideration money which could be obtained for the property, do you think that he was supposed to sign such documents without knowing that the facts therein stated were in every way true, or of his having inquired into them to ascertain that they were so?—Yes; I think that all the auditor had to satisfy himself upon was, that the bill was drawn in conformity with the directions of the duchy court.

946. Do you think that if the auditor had been called upon to sign as auditor a bill which, to his knowledge, was a misapplication of the property, or contained any fraudulent act on the part of the duchy, he ought, without exercising any judgment in the matter, to sign such bill or other document because the Chancellor and council had at some time made a minute that the auditor was to sign them on the mere production to him of their minute?—If the bill was strictly in conformity with the minute I think it was the duty of the auditor to sign it; the responsibility attached to the Chancellor.

947. Then in fact the auditor's office was merely nominal with regard to the sale of land?—He had no voice in the amount for which such and such properties were to be sold, but it was not quite nominal, because his signature was looked upon as a voucher for the order of the court being carried out in that bill.

948. Have you not said that by the particular the auditor exercised a check?—No, I think not; I do not think that that will appear in my answers.

949. *Chairman.*] Was the practice of Mr. Bertolacci, with regard to the signing of bills and leases, different from that which was pursued by his predecessor?—A change took place while Mr. Bertolacci was auditor; a reference was made by the council to the minute which I have read of 1844, and it was thought that there was a link which might be supplied by the clerk of the council signing the bill, the auditor still signing the certificate at the foot of the bill; that was in December 1854, when the joint report of the attorney-general of the duchy and the vice-chancellor of the county palatine, as to the mode of passing leases, was read; "They consider the functions of the auditor, as regards the passing of duchy leases, to consist simply in his having to see that the property demised, and the rent, and the fine (where a fine is taken) are in accordance with the minute in council; instead, therefore, of the auditor affixing his signature to the draft lease, according to the arrangement made by the beforementioned minute

minute of 6th August 1844, and to which Mr. Bertolacci objects, as seeming to pledge him to the legal correctness of the document, they recommend that the auditor, after satisfying himself on the points which appear to them to come properly under his cognizance, should annex to the draft his certificate in the following words, *mutatis mutandis*, viz.: 'I certify that the property above described, and the rent above reserved (and the fine for the renewal, if any), are in accordance with the minute of court of the day of ;' and that after such certificate is annexed the draft be submitted for the signature of the attorney-general, in proof of his approval of the legal form of the lease." Then by the same minute it was that Mr. Bertolacci's suggestions in regard to some of the leases were taken into consideration, and it was directed that the conveyancing counsel of the duchy should be consulted about them. Mr. Bertolacci says they were drawn carelessly, but they were drawn from printed forms which existed in the office, so that if they were not correct it was not the fault of the clerk in the office who drew them.

950. Is it your opinion that the effect of those changes was to place the clerk of the council's signature in place of that of the auditor, and to remove those functions from the auditor which he had formerly performed?—In one part of the bill the clerk of the council's signature was substituted for that of the auditor; but I do not think that any powers that the auditor had before were at all abridged by that alteration.

951. Mr. *Coningham.*] During Lord Granville's Chancellorship was not it admitted that the valuation of the surveyors and leases should be submitted to the auditor to be checked?—I think that in the communication that Lord Granville made to Mr. Bertolacci, he stated that they were open to his inspection; but I have not a very clear recollection of it, and I may add that Lord Granville, upon another occasion, begged that anything which had been communicated to Mr. Bertolacci should not prevent his making any suggestions which he might think necessary; but it did not give Mr. Bertolacci a deliberative function in regard to his office.

952. Do you not think that that is rather at variance with the usual previously expressed privileges and duties of the auditor?—I really view it as a matter of courtesy on the part of Lord Granville, then Chancellor, to invite any opinion that any officer of the duchy might have to suggest with reference to the duchy proceedings.

953. *Chairman.*] Are you of opinion that the real value of the properties parted with or leased during the last ten years has been obtained?—I think so; I have no reason for supposing otherwise.

954. Are you of opinion that it would be an improvement on the present system if the property were put up to public competition?—In some cases; and in some cases it is done, where a large property has to be sold. Since the powers of sale have been enlarged, by the Act of the 18th and 19th Victoria, it has been adopted. It could not well be adopted before that, for our powers of sale were so limited. We sold little else than small detached pieces of land; those could only be really useful to persons whose estates surrounded or adjoined them, and supposing they were put up to auction, any one bidding against such persons could not do it for the purpose of possessing the property; but must do it either to make a bargain by selling it again, or for purposes of annoyance; and the same with grants of little roadside encroachments from a waste; they are only of use to persons who have the back land, and putting up a little encroachment of that sort for sale would not only incur very unnecessary expense (for they were principally small encroachments), but it would give an opportunity of annoyance, supposing any individual wished to annoy a particular purchaser by outbidding him, a purpose that would be considered unworthy of anybody acting for the Queen to encourage.

955. Viscount *Goderich.*] I imagine that the enlarged powers of which you have spoken, under which property is now put up to auction, did not come into force during the time that Mr. Bertolacci held the office of auditor?—No.

956. Mr. *Coningham.*] In the sale of the duchy property, do you not think that it was the duty of the officers not to look to the interests of the purchaser, but solely to the interests of the duchy, that is, to obtain for the land belonging to the duchy the highest market price, in short?—Yes, I think so; but I think that in some cases it is for the interest of the Queen particularly, as being the head of the

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duchy, that no unnecessary annoyance should take place in the sale of little encroachments and little out-lying bits of property; I think it is what no private individual would do; I feel myself that if I had a small piece of land surrounded by the estate of any gentleman, I should be very sorry to put it up to auction; I would rather have it valued, and sold to the gentleman, to whom it would be most acceptable.

957. Viscount *Goderich.*] Do you consider that if these plots of ground had been put up to auction, they would have brought in much more money?—No, I think generally speaking not; they were more valuable to the persons to whom they were sold than to anybody else.

958. *Chairman.*] The Committee has been informed that a Mr. Legard was employed as a valuer at York; is there more than one valuer employed by the duchy?—He is the surveyor-general of the lands of the duchy.

959. Throughout England?—Yes, throughout England, wherever the duchy property is. There are cases where the shore between high and low water mark is to be sold, and on those occasions Captain Evans, who is the acting conservator of the River Mersey, has generally been employed as knowing much more of the value of that kind of property than our surveyor-general, but the surveyor-general is usually the person employed. Perhaps here I may be permitted to read a letter from Mr. Legard, with reference to the evidence which has been given by Mr. Bertolacci with respect to a valuation which he made: "Easthorpe Hall, Malton, June 25th, 1857. My dear Sir, Seeing by the report of the proceedings of the Bertolacci Committee of Monday last, that Mr. Bertolacci has thought proper to cast some reflections upon the performance of my duties as surveyor-general of the duchy, and as I shall be able to show you that these reflections are unfounded, I must trouble you as briefly as I am able with the particulars of the case which has brought them forth. In the first place, it seems to have been stated that 'Mr. Legard was supposed to have visited the property valued, but it was quite clear that he did not.' Now this is not so. I visited the Oldcoates property in the first year in which I received my appointment, and made special reference to it in the report which I had the honour of laying before the Chancellor and council early in the year 1851. The piece of land in question, within the manor of Styrup, consists of 2 roods 17 perches, with seven dilapidated cottages upon it. It is a strip of way-side waste of the highway leading from Maltby to Styrup, and was not inclosed therefrom. The negotiation for its sale took place early in the year 1854, and there was a great deal of correspondence concerning it. It was leased with other property to Lord Galway, 22 years of the lease being unexpired in 1854. A Mr. Challoner, whose property adjoined it, offered to purchase the plot, more for the sake of abating a nuisance and removing what was an eyesore and a disgrace to the neighbourhood than of acquiring anything of intrinsic value. His own agent had valued it at 150*l.* in fee; my valuation, contained in a letter to you of May 20, 1854, was 158*l.*; this was based, as all such valuations must be, upon the information I had received from Lord Galway's agent of the rentals and the out-goings, and it was formed on the presumption that Lord Galway might give us immediate possession (*vide* letter of yours to me of 27th April 1854) and relinquish all claim for beneficial interest in it. This, however, it appeared his Lordship was not inclined to do, and so matters passed on till early in August, when Mr. Challoner wrote (through his agent, a Mr. Horncastle), stating how important it was to him to get possession of these tenements and pull them down before the approaching winter, and offering if he were put into immediate possession to pay 200*l.* for them; after a short correspondence with Lord Galway as to the apportionment of this sum betwixt himself and the duchy, the proposal was considered to be agreed to, although it was not ratified till the return of Lord Granville to England some weeks later. This plain statement of facts will account, I hope satisfactorily, for what unexplained might appear an error in judgment; I am entirely satisfied that my valuation was a fair one, and that nothing but Mr. Challoner's urgency would have induced him to pay 50*l.* more than the estimate put on the premises by his own agent. Mr. Bertolacci is further made to say that when he called my attention to some questions referring to this property, I sent my answer to 'the clerk,' and not to him. This is hardly strictly correct; what passed between us was in the following month of December; early in that month I received a letter from Mr. Bertolacci containing a list of very minute inquiries in respect of the Oldcoates property; I formally acknowledged his

letter

letter, and on the 18th of the same month I wrote again to him, stating that I had transmitted to you the paper of queries answered. I was induced to take this course, having stated my views to you upon it at some length on the 9th December 1854, and having received from you an immediate reply giving, although as a private opinion, your own acquiescence in those views I may here state that it was entirely on public grounds that I did this, and with the object as I thought of the better fulfilment of the duties of my office. I had no personal acquaintance whatever with Mr. Bertolacci, and am not sure that I ever was introduced to him, and I should be extremely sorry to be thought wanting in proper courtesy and respect to any duchy officer. I am, my dear Sir, yours truly, *George Legard.*"

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960. Does the writer of that letter, Mr. Legard, give an account with regard to the lands there mentioned, that he had fixed on the sum of 158*l.* as the real value, but that the purchaser had offered 200*l.* in order to obtain the advantage of an immediate possession?—He does.

961. Mr. *Coningham.*] Did not Mr Legard in his first letter to Mr. Bertolacci, say that he would send the answer to Mr. Bertolacci?—I do not know what passed in his letter to Mr. Bertolacci.

962. Will you put in a list of all the grants in fee between the 15th of May 1854 and the 12th of June 1855, showing the quantity of land, and the amount obtained in each case?—Those bills that have been put in, embrace the whole; but if you want the information in a more detailed form, it can be easily supplied.

963. *Chairman.*] The Committee have been told by Mr. Bertolacci, that in the accounts that were sent to him as auditor, there was a total omission of all witness to vouchers; is that the practice of the office?—Certainly; I believe it is the practice everywhere except in the Commissariat Department.

964. Viscount *Goderich.*] And you do not consider that such vouchers are usually required in public offices?—No, certainly not; it has been observed by Mr. Bertolacci that his proposal met with decided opposition. I will read a letter which was written by Lord Harrowby's desire to the Commissioners of Audit, making inquiry as to the practice in auditing public accounts. It is dated the 3d April 1855, and is as follows: "Gentlemen, I am directed by the Chancellor of the Duchy of Lancaster to request you will have the goodness to inform him whether there is any rule or practice in the auditing of the public accounts under which accountants are required to have the signatures to vouchers or receipts for money attested by a witness. This course having been represented as a rule of audit, which public accountants of the highest grade are required to submit to, and as being enforced by the Audit Office in the examination of the accounts of the Office of Woods and Forests, the Chancellor is desirous of ascertaining the fact from the best authority, for the purpose of considering how far it may be proper to adopt with respect to duchy accountants a practice similar to that pursued with respect to accountants of other departments." The answer is dated London, April 1855, and is as follows: "Sir, In reply to your letter of the 3d instant, I am directed by the Commissioners for Auditing the Public Accounts to state for the information of the Chancellor of the Duchy of Lancaster, that it is not the practice or rule of the Audit Office to require the signature to vouchers or receipts for money to be attested by a witness." That is signed by Mr. Macaulay, the secretary.

965. Did Mr. Macaulay give any answer to the remarks of Mr. Bertolacci, with regard to the Office of Woods and Forests?—No; but I believe that there is a gentleman here who is prepared to answer any question upon the custom and practice of the Audit Office.

966. *Chairman.*] Can you state to the Committee, of your own knowledge, the custom with regard to the Commissariat accounts?—Not of my own knowledge.

967. Mr. *Coningham.*] In the Barrack Master's and Ordnance Storekeeper's Department, is not the same system adopted as in the Commissariat Department?—I think it may be.

968. *Chairman.*] Since you have held your present office, have you ever required a witness to vouchers?—No, not unless the party who received the money was incapable of writing; then, of course, the mark was witnessed; Mr. Bertolacci may have thought that his recommendation was opposed; it was only opposed on the ground of the great inconvenience that would arise from

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from it, and it will be seen that every one who might come to receive money must bring some one to attest his signature, or else it must be attested by some one in the office who is under the control of the head of the department. It was certainly thought a very unusual and unnecessary thing before the Audit Board was written to; but that letter was written to the Audit Board with a view of eliciting what the custom was, and whether it could be applied to the duchy accountants.

Captain *George Evans*, R.N., called in; and Examined.

Capt. *G. Evans*, R.N.

969. *Chairman.*] YOU are the Acting Conservator of the River Mersey?—I am.

970. Will you state what the plan is which you now produce?—It is a chart of the upper estuary of the river Mersey.

971. Will you point out on that plan the property of the Duchy of Lancaster which has been brought under the notice of this Committee. (*The Witness described the plan to the Committee.*)

972. Will you be so good as to describe what that particular spot is, and what is the nature of it, which has been called in the evidence "a wharfage"?—It is not a wharfage, it is merely a wall built along the shore for the purpose of making a slip to build ships.

973. Do you recollect what value you set upon the right, if parted with?—It was 80 *l.* per acre, and the purchasers had also to go to an expense of many thousands in removing rocks out of the river for the benefit of the navigation. If the duchy had given them the land for nothing, they would have been doing no more than the Board of Woods have done at Birkenhead. The purchasers have laid out 10,000 *l.* in removing rocks and building the wall, and they have never got one farthing interest.

974. In that transaction, do you think that the duchy obtained the full value of what they parted with?—I think if I were called upon to decide, seeing the result, I should request the duchy to refund the money for the improvements made in the river.

Lunæ, 13° *die Julii*, 1857.

MEMBERS PRESENT.

Mr. Bramston.	Viscount Goderich.
Mr. Coningham.	Mr. J. Hans Hamilton.
Mr. Sotheron Estcourt.	Lord Harry Vane.

T. H. S. SOTHERON ESTCOURT, Esq., IN THE CHAIR.

Frederick Dawes Danvers, Esq., called in; and further Examined.

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975. *Chairman.*] HAVE you looked at the records of the office, and can you state what was the expense of the prosecution at York, which has been referred to in the course of this examination?—I find upon reference to the accounts of the receiver-general that the gross amount was 1,285 *l.* 8 *s.*, from which were deducted the costs paid over by the defendant, 750 *l.* 10 *s.* 7 *d.*, making the actual cost to the duchy of 534 *l.* 17 *s.* 5 *d.*

976. What was the name of that action?—Jewison *v.* Dyson. It was a case of a coroner, tried at York.

977. What was the date of the trial?—I think it was in 1840 or 1841; I see the first account of the charges is dated in 1841, and it may perhaps not be irrelevant to state, that though Mr. James Freshfield is represented as having been an "excellent authority," he was not at all connected with the duchy, and it must therefore have been merely hearsay. He was, no doubt, a very good authority upon law matters when cases were properly put before him, but he could not have had any opportunity of knowing the expenses in this case.

978. In what manner do you make out the contingent or incidental expenses

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of your office?—A sum is issued to me to meet the current expenses of the Duchy Office, generally 200*l.* When that sum is expended in the current disbursements, an account is laid before the auditor, which he examines; he then certifies as to the expenditure of the sum issued to me, stating the over-payment, if there be any over-payment, and recommending a further issue; that certificate is then laid before the Chancellor of the duchy who directs by minute of court that the over-payment be reimbursed to me, and a fresh issue made.

979. Will you give us an account of the mode in which this item of contingent expenses was balanced and audited before Mr. Bertolacci became auditor?—The account of the contingent payments was laid before the auditor, as in Mr. Bertolacci's time; he certified the examination, and recommended a further sum to be issued.

980. Was there any date in the year at which regularly the account of incidental expenses was balanced and audited?—I suppose that about three times in the year those issues were made. I think it has been stated in the evidence that about 400*l.* is the annual expenditure; it amounts to more than that.

981. Was there any period in the year when the account of those issues, whether three or more, was settled, balanced, and audited, or was it a running account, which from time to time was audited by the auditor?—It was, I think, more of a running account. I think that question could be better answered by the deputy to the receiver-general, who makes up the accounts; but I think it was a sort of running account; such sums were charged as were actually issued to me.

982. Was it a part of your business at any particular date in the year to make up and to balance the account of the contingent expenses of your office?—No; upon every occasion that I rendered the account.

983. Whenever, therefore, a fresh issue of money was made, a balance was struck?—Yes.

984. What is the amount which was yearly expended by you for contingent payments?—I should think something like 600*l.* a year altogether; it embraces a variety of items.

985. Have you ever been accustomed to require a witness to the vouchers of the items in your contingent account?—No; I believe that in payments to insurance offices there is a witness, but that I think is accounted for in this way; the receipt is probably signed by a director and left as a form with the acting officer, whoever he is; then that officer, when the money is received, affixes his signature also to the receipt.

986. When Mr. Bertolacci wrote to you with reference to this account of contingent expenses, it is stated that in your answer you criticised the propriety of his making any such remarks, stating that prior auditors had passed the charges without making them; what was the nature of the answer which you made to him?—I think the answer is recorded in the evidence; I have every reason to believe that it is correct.

987. Do you now, at this distance of time, the whole of the answer being brought under your observation, think that that is a true account of the answer that you gave, namely, that you criticised the propriety of his making any such remarks?—No: I never meant to criticise the remarks of the auditor; what I felt hurt at, and which I have not the slightest objection to repeat now, was that I should be charged with making "unauthorised payments." Now, what I contended then, and what I still contend, is that there was not a single item that was not authorised; it is true that there might not have been a direct order of the council for some of those items, but they were items which had been allowed by prescription from a very remote period. The items that are termed to be not authorised (that is, for which there is no direct minute of the court, at least which I could trace), are charges which are almost universally made with respect to official residences, such as taxes and small repairs, rates, and different things of that nature. I beg to repeat that the words I complained of as having been used by Mr. Bertolacci were "Disbursements not previously authorised," as calculated to convey to the court a notion that I had taken upon myself to charge the duchy with payments which had not precedents of long standing, if not the actual orders of the court; I never admitted the propriety of Mr. Bertolacci using those terms.

988. Did you admit the propriety of the observations made to you by Mr. Bertolacci

Bertolacci in a letter which he sent the beginning of June 1854 to Mr. Strutt?—No. I might have considered some of the observations relevant, but certainly I never could admit the propriety of the terms which Mr. Bertolacci made use of, calling them "unauthorised payments." And I may here state that if Mr. Bertolacci had mentioned to me "Here is no evidence of this; there is not so and so," I should not have felt hurt; but instead of doing that, he writes a report and sends it to the Chancellor, which was a very usual custom with Mr. Bertolacci. Instead of communicating with those officers who would very readily have received his suggestions, he puts matters of this kind upon paper as he does memoranda of conversations, and then they go to different officers, to the Chancellor, and any one else he chooses to send them to. That is not the usual practice in official proceedings, I think.

989. Do you consider yourself accountable, as one of the officers of the duchy, to the auditor?—I consider myself bound to lay before the auditor the accounts of the duchy monies that I expend; I consider myself accountable to the Sovereign, or the Chancellor, as the delegated authority of the Sovereign.

990. It is stated in the petition that the "clerk of the council attempted to exercise those restrictive powers over your petitioner, whilst he was himself a party accountable to the auditor for sums received from the duchy and to be accounted for, for fees received on behalf of the duchy, and for monies arising out of the distribution of grants by the Queen of escheated property, which respective items could only be ascertained by an unrestricted perusal of the minutes by your petitioner." Have you any explanation to give to the Committee upon the subject of that paragraph?—In the first place, nothing could be farther from my intention than attempting to exercise any restrictive powers over the auditor; and I should be less inclined to do so, being myself a party accountable for monies which pass through my hands. With regard to the distribution of grants of escheated property, I had only one line to pursue, for the grant of that property was always restricted by the trust for which it was granted; for example, in the case of Focke, deceased, the property was conveyed to me by the Queen's letters patent, for the purpose of distributing it among the parties who would have been entitled but for the forfeiture to the property in question; and I had nothing to do but to follow the directions of the trust deed or conveyance, and to send in and have my account afterwards audited, which was done.

991. Whatever your course was in the case of Focke, deceased, has it been the same in similar cases, since you have held your present office?—Certainly, whenever there have been similar cases; it is not very often that the escheated property has been granted in trust in that way; there were many claimants in that case; I believe it was partly to avoid a very heavy stamp, for if they had been separately granted to each, each grant would have been subject to a stamp of 30*l.*

992. Was the distribution of the property exactly prescribed by the terms of the trust you were called upon to fill?—Precisely; and I should state that the Chancellor issued his directions upon those points after the report of the solicitor upon the matter had been laid before him, who had recommended such a course.

993. Was it in your power, if you had been so inclined, to favour one party at the expense of another?—Quite impossible.

994. Would it have been in your power to divert any portion of this money to any purposes besides those prescribed in the trust?—I do not see how I could possibly have done it.

995. Viscount *Goderich.*] Had you any power whatever under that trust of dealing with any interest of the Crown?—No, not at all; the Crown disposed of its interest by this very grant.

996. Supposing, which of course is an impossible supposition, that you had had any inclination to do anything wrong in the matter, the Crown would not have been the party to suffer?—No.

997. Mr. *Coningham.*] In Mr. Bertolacci's letter to the Chancellor relating to the incidental account, did he not say that the account might be passed, subject to the approval of the Chancellor of such disbursements as were not previously authorised?—Yes, that appears I think in the document put in.

998. What is the nature of the authority required to pass the accounts?—Of course it rests with the auditor to decide what authority is satisfactory to him; in this case the auditor was not satisfied with prescription and ancient usage upon all matters; there were council minutes and orders for some of the payments

ments, most of them in fact; others were items authorised by long standing custom. *F. D. Danvers, Esq.*

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999. *Chairman.*] It is stated in answer to Question 140, that you refused Mr. Bertolacci free access to the minutes of the council in the first few months after his appointment, and before the order was obtained in November 1854, which gave him free access?—Just so; I had only one motive, that I did not feel authorised to throw open the minute book to anybody, without the directions of the Chancellor.

1000. Although you refused free access to the minutes of the council during that period, did you give to Mr. Bertolacci any access at all to any of the minutes?—Any access that he might require to minutes affecting his duties as auditor.

1001. Do I rightly understand you to say that during that period, for all particulars involved in the particular business of audit, Mr. Bertolacci had access to the minutes of the council?—Yes.

1002. Then what was that free access which is spoken of, and which was granted in November 1854?—It meant a general privilege of going through the whole of the minutes of the duchy court.

1003. Did it give to Mr. Bertolacci power to take home with him either the rough minutes or the minute book?—No; I should not have thought myself authorised in allowing that, as being keeper of the records.

1004. What is your opinion of your duty in respect to any official documents belonging to the duchy, with regard to the power of the auditor to take them home or not?—My impresion with regard to my duties is this, that I have no authority to allow documents to go out of the office of myself; I believe that Lord Belper (but I am not quite sure as to that) had sanctioned Mr. Bertolacci having some of the documents at home for the purpose of facilitating the progress of his business.

1005. But in such cases should you have thought it right to allow such documents to be taken home unless you had received some authority from the Chancellor for the time being?—No, I think not; I think there might have been a little discretion vested in me; as there must be always in a person who has the labouring oar in an office like ours.

1006. Did Mr. Bertolacci at any time ask you for anything more than free access to the minutes of the council at the office?—I think upon one or two occasions when Mr. Bertolacci found it inconvenient to come to the office, and an authority was required for any signature that he had to affix to a document, the minutes signed by the Chancellor were sent to him in an official box, of which he had one key, and I had the other.

1007. But, speaking generally, the free access to the minutes of the council, for which an order was obtained in November 1854, meant, and was understood by all parties to be, an access to those minutes in the office?—Yes.

1008. In the evidence of Mr. Bertolacci, at 147 and the following, reference is made to an interview between yourself and Mr. Bertolacci, when Lord Waterpark came in; have you any explanation or statement to make to the Committee upon that subject?—With respect to the impressions upon Mr. Bertolacci's mind on the occasion of my introducing him to Lord Waterpark, I can only say I have no recollection of the marked manner that he has mentioned as a ground of his suspicion, nor of the particular subject regarding the woods. I introduced Mr. Bertolacci to Lord Waterpark as I should introduce any new officer of the duchy to another officer of the duchy; and had I not done so I think Mr. Bertolacci might very reasonably have thought that I had not treated him with the respect due to his office. I may add that I believe Mr. Bertolacci is in error in saying that he was a quarter of an hour in the room with Lord Waterpark; I do not think he was more than five minutes. It is right the Committee should know that Lord Waterpark has nothing whatever to do with the accounts relating to the woods. Lord Waterpark will be happy to attend the Committee and afford them any information they may require of him.

1009. Is it your opinion, then, that there was anything particular either in your manner or Lord Waterpark's at that interview to lead to the impression that there was something which either of you wished to conceal?—I cannot conceive that there could have been, for I have not the slightest recollection of anything that I did wish to conceal.

1010. Are you of opinion that with regard to what has been stated upon that subject

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subject by Mr. Bertolacci, he was altogether mistaken?—Yes, I think it is the effect of his own imagination.

1011. Mr. *Coningham.*] Was it not possible for sums to be mentioned in the minutes which should be brought to the charge side of the account, and without free access to the minutes, was the auditor not dependent on you for the information?—No; the proper books for any sums to be placed on the charge side of the account are the enrolment books: for example, in the case of any new lease that is granted, the rent appears in the enrolment of that lease, and that would be an authority for charging the receiver-general with that rent; it would not appear on the minutes.

1012. Were not imprests of the woodwards, for instance, issued?—Yes, but that is an item of discharge; there are many items of discharge which would appear in the minutes, because most, if not all of the items of discharge are under the authority of the court, except what I mentioned before with regard to some of the contingent payments which have been allowed by former auditors, and have been matters of ancient allowance.

1013. Were they not sums on imprests to be accounted for?—Yes, they were amounts issued, and were payments; they would come on the discharge side of the account of the receiver-general.

1014. *Chairman.*] Do I rightly understand that items on the discharge side would appear in the minutes, but items on the charge side, for the most part, must be sought in the enrolment books?—Yes.

1015. Are you able to give the Committee any particulars with reference to the circumstances connected with the sale of property at Salford to Mr. John Brooks?—It was a small encroachment from the wastes of the manor, and I should state to the Committee that until these little encroachments take place the duchy have no authority to enclose them themselves, or to dispose of them; it is under a special Act of Parliament that the duchy is empowered to sell encroachments on the wastes of manors which belong to the duchy. In this case the encroachment was a bit of road-side waste in front of Mr. Brooks's premises, valueless I believe to anybody else but Mr. Brooks, and at all events it would have been a very strange proceeding to have offered this bit of waste, which intercepted Mr. Brooks's frontage from the road, to any other individual.

1016. Mr. *Bramston.*] What was the size of that?—Two hundred and fifty square yards.

1017. *Chairman.*] It is stated that the valuation upon which this sale took place was its yearly rental, made 25 years ago, and which was therefore inapplicable to the present time. Do you know anything at all about that matter?—That is a suggestion of Mr. Bertolacci. I explained it to some extent in a letter written to Mr. Bertolacci, I think, by the direction of the then Chancellor. It will be seen that if you have valuers employed on every occasion that these small encroachments are made, or if these encroachments are put up for sale by auction, a very large portion of the sum to be received for the sale of them will form a deduction from the actual amount received. With regard to the valuation having been made so long since, that valuation was considered a very high one at the time, and nothing has occurred since to make the Chancellor and council suppose that it would not apply at the present time. It has been observed that a railway has been made near it, and a cattle market has been the consequence of that railway; and we happen to know in the office that the value is rather depreciated than otherwise from those circumstances, inasmuch as many of the houses which formerly were tenanted became vacant.

1018. According to your notion of the duty of an auditor, what voucher or guarantee do you think Mr. Bertolacci ought to have received, or to have been contented with, with regard to the bill for the sale of this property?—I think the council minute, directing it.

1019. Was such council minute founded upon a valuation by the ordinary valuer belonging to the duchy?—The valuation that was made in respect to these bits of waste at Salford was made by a gentleman whom the duchy employed at this period, a Mr. Wilkin, of Spring Gardens; it was in the year 1828. This manor had been originally in lease; and a number of petitions were presented to the Chancellor and council before this valuation of 1828, setting forth that a great grievance was likely to arise to individuals possessing property adjoining the wastes of the manor in consequence of the oppressive proceedings of the then lessee.

lessee. This induced the Chancellor and council to come to terms with the lessee for the surrender of his lease. The result has been a benefit to the revenues of the duchy, while justice has been done to the parties concerned.

1020. Mr. *Coningham.*] The benefit arising from the increased value of the property?—The benefit arising from the sales we have made of encroachments when they have been made from time to time; I should say that a great many of these roadside wastes were actual nuisances, so that it was desirable the duchy should almost encourage the enclosure of bits of waste land, inasmuch as, till that was done, we could not sell them, we had no power over them; the public could go over them as they liked.

1021. Has there not been an increased value of the property?—Not in regard to this particular position, and I doubt anywhere. It was a very high valuation.

1022. When the valuation was made, was not the land rural?—No; Salford was not a rural district at that period; the buildings have increased at Salford, as they have in every suburb of great towns; but it was anything but a rural district then. I may state that if a calculation is made as to the amount this would come to per acre, it would be something like 1,000 *l.*

1023. Viscount *Goderich.*] Would this parcel of land stated in the evidence to be 130 feet frontage to the main road by 17½ feet deep have been available for building purposes?—I think it would have been too narrow for that.

1024. *Chairman.*] In the case of this Salford bill, do you think it can be truly said that the auditor being required to sign the bills, and being excluded from a seat at the council, he gave by signing those bills a certificate to a fact which did not exist, namely, that he had examined the surveyor's report and valuation?—I do not think that the auditor's signature to the bill was to indicate his approval of the value, but merely as a certificate that it was in conformity with the orders of the court.

1025. Do you recollect writing a letter on the 18th of May to Mr. Bertolacci, requesting him to sign two bills, one of which was for a piece of land in Salford to Mr. Brooks?—Yes.

1026. What is your recollection of what you meant by the words "properly signed"?—Signed according to the form prescribed by the court.

1027. Do you think that being called upon to sign without having been present at the council, he was restricted from exercising a check upon the proper valuation of the property to be parted with?—That is assuming rather that he had a right of check upon the valuation of the property, which I do not think was the case.

1028. Can you give the Committee any information with regard to a bill for granting in fee a piece of land to Mr. Aaron Wetherall, of an encroachment in the manor of Pendleton?—I do not recollect the particular circumstances, but I think it is very much the same sort of grant as the one I have just alluded to. I may here state, perhaps, that the auditor's particular, the form adopted till the 6th of August 1844, merely described the premises, and adopting the valuation of the surveyor-general, recommended the granting of a lease on terms in accordance therewith. Lord Granville Somerset, when Chancellor of the duchy, thought the multiplicity of forms ought to be reduced, and accordingly made an order that what he considered to be the unnecessary form of the auditor's particular should be dispensed with, and that the surveyor's valuation and report, without the intervention of the auditor's particular, should be the basis of the subsequent proceedings.

1029. Do you recollect the passing of a lease of certain houses in the Strand, 113 and 113 A?—Yes.

1030. It has been stated that those leases, and other leases not particularly mentioned, were drawn up in a careless manner; have you any recollection of that being brought under the notice of the Chancellor?—Yes, I have; I can only say that the leases were drawn up from printed forms, which had, no doubt, at sometime been settled by the law officers of the duchy; Mr. Bertolacci's observations upon them were read before the court, and referred to the law officers.

1031. Do you know what opinion the law officers gave after such reference?—They recommended some alterations in the forms of the leases.

1032. Viscount *Goderich.*] So that they so far coincided with Mr. Bertolacci's opinion as to think that some change was advisable?—I think the council thought

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it advisable to attend to any suggestion that was made, and therefore they referred it to the law officers.

1033. *Chairman.*] As a matter of fact, do you recollect whether any alteration was adopted in the forms of leases about that period?—Yes, shortly afterwards.

1034. Have you any reason to doubt that such alteration was adopted in consequence of or after the remarks made by Mr. Bertolacci on the subject?—Yes, I think some were; other suggestions were thought very lightly of by the conveyancing counsel.

1035. Do you think it would have been a proper thing for the Chancellor to have referred those remarks, or the whole question of an alteration of the form of lease, to the auditor, in conjunction with the law officers?—I think the conveyancing counsel was the proper person; I can hardly answer that question; I think it was quite a matter for the Chancellor to consider, whether he should unite the auditor in the reference with the other officers of the duchy.

1036. Upon the subject of enfranchisements the Committee have received some evidence from Mr. Bertolacci, at No. 288; have you any remark to make to the Committee upon that point?—Mr. Bertolacci is quite correct in stating that these enfranchisements were not in all cases submitted to the Chancellor and council; I found the practice which was afterwards adopted when I first became acquainted with the duchy; the reason that they were not on all occasions submitted was this, that all manors have their customs, and we proceeded upon the custom; an Act of Parliament authorised the enfranchisements to be made, and I found that to be the case; I found that it was not necessary upon all occasions to bring them before the court. I must say that I think it an improvement that they should be brought before the court; it lessens the responsibility of the clerk of the council, and makes the whole thing proceed from the proper authority, which is the duchy court, and it is done so now; but the Chancellor of the duchy is not necessarily at the office every day, and in fact it would be extremely inconvenient to many Chancellors of the duchy, who are cabinet ministers, and have very important public duties to perform, to be constantly in attendance there; and all these little details, if brought before the Chancellor, must to a great extent impede the progress of the duchy business. But I believe that not a single enfranchisement ever took place that would not be sanctioned if it was brought before the court.

1037. Lord *Harry Vane.*] Was not it brought subsequently to its being done before the Chancellor?—Not always; it was considered as a matter of precedent; the consideration for enfranchisements so much depends upon the custom of the manor, whether the fines are arbitrary or not, and so on. Where the fines are arbitrary, of course a larger sum is required for the enfranchisement; a greater number of years' purchase is taken.

1038. In the cases where arbitrary fines were taken, how did you settle the matter?—According to the custom that existed with respect to the manor; in some cases four, and in some cases five years' purchase, according to the custom that prevailed in that particular manor.

1039. In every case you were guided by the precedent of that particular manor?—Yes.

1040. Viscount *Goderich.*] The course which you followed in that matter, was that which had been pursued by your predecessors?—Yes.

1041. *Chairman.*] By the word "arbitrary," you mean not specifically defined; but do you mean that it was in the power of the duchy to ask any sum they pleased?—No, I think by a fine arbitrary, is meant where it extends to two, three, four, or five years' purchase.

1042. Mr. *Bramston.*] It is a distinction between that and a fine certain?—Yes; in that case one year's annual value is generally taken by us and the Office of Woods.

1043. Mr. *Coningham.*] Those enfranchisements took place under the small seals of the duchy, did they not?—Yes.

1044. Do you consider they were legal therefore?—Yes, the small seal attached to documents where the great seal would be very inconvenient to attach has the same effect.

1045. *Chairman.*] In the case of the small seal being attached to the instrument, was it your practice to write your own name, "Danvers," below?—No, the name is engrossed at the bottom of the warrant.

1046. What does the seal with the name engrossed below it imply?—The seal

seal implies that the grant is made; in fact, it is a grant, whether it is of money or of property.

1047. And what does the name imply?—Merely who was the clerk of the council at the time. Mr. Villiers was my predecessor, and I found all the warrants previously engrossed with his name.

1048. Does your name engrossed below the small seal imply that you are keeper of the seal of the duchy, and that the seal has been attached by you to that document under the proper authority?—Yes.

1049. Has the document so signed the same authority as if it had passed under the great seal and with the signature of the Chancellor, or whatever may be the most authoritative way of passing short of the sign manual which there may be in the office?—Yes, except that you state "signed"; it is not a signature, it is the engrossment of the name, but in answer to the question put I should say, yes, the seal being on the document, of course.

1050. What is your authority then for affixing the small seal to any document?—The same authority which I have for affixing the larger seal.

1051. Do I rightly understand you to mean that in all cases where the small seal is affixed you have the authority of a minute of the council?—Not as regards these enfranchisements, because, as I said before, they are a matter of precedent and prescription.

1052. But in all other cases?—In all other cases.

1053. Viscount *Goderich.*] How are you guided as to when you affix the large or small seal?—More by convenience; in a small warrant a large seal would be very inconvenient.

1054. Do you consider that the two seals have exactly the same authority?—Yes, the same.

1055. In whose custody is the small seal?—It is kept in the office.

1056. It is stated here that the small seal is kept in the possession of Mr. Gooch; is that so?—Yes; who is the first clerk in the office.

1057. But technically is the small seal in your charge as well as the great seal?—Yes, technically.

1058 It is not then in Mr. Gooch's charge as deputy to the receiver-general?—Not all.

1059. But as first clerk in the office?—Yes, as first clerk in the office.

1060. And you are responsible for the attaching of the seal to those documents?—I hold myself so.

1061. *Chairman.*] Have you any circumstances to state to the Committee with regard to the sum of 50*l.* with which the receiver-general debited himself as having been an over credit taken in his previous account for the year 1852?—Only that I believe it was by the checks afforded by the system of account condemned by Mr. Bertolacci that the error of 50*l.* was discovered, not by Mr. Bertolacci, but by his predecessor in office who had noted it.

1062. Mr. *Coningham.*] Was not the seal just referred to the same which was used to warrants of payments made by the deputy to the receiver-general?—Yes.

1063. *Chairman.*] Can you give the Committee any information with regard to the arrears stated to have been due by the executors of the late Lord Granville, or by the present Lord Granville?—I do not think that I can give more information than appears in the evidence that has already been given. I may state, with regard to those arrears, that Lord Granville, as it is well known, came into possession of this lease upon the death of the late Lord Granville, his father, and that he has laid out an enormous sum in engines and other works necessary for the raising of the coal and ironstone, which has been of great benefit to the duchy, increasing the revenue from that particular leasehold property to a very large extent; and I believe the great outlay by Lord Granville's agents there may have been the cause of arrears having been incurred; but the benefit to the duchy property, by having Lord Granville as a lessee, has been very great. I will put in, if you please, two documents, showing the revenue from these minerals, one from the year 1836 to Michaelmas 1846, and then from that period for the subsequent 10 years. The Committee will see that it is about double. The first is this: "Produce of the Newcastle-under-Lyne Mines, for 10 years, from Michaelmas 1836 to Michaelmas 1846."

1064. Were

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1064. Were those mines leased to the late Lord Granville?—They were; the lease has since been renewed; the average for the first 10 years was 1,597*l.* 18*s.* 10*d.*, the average for the 10 years ending with 1856, amounts to 3,105*l.* 18*s.* 11½*d.* (*The Papers were delivered in.*)

1065. Viscount *Goderich.*] Can you state whether those arrears were for rent or for royalty?—For royalty; the dead rent was always exceeded by the royalty; the dead rent was reserved in case the royalty did not produce such amount.

1066. I observe from the accounts that there were other arrears besides those of Lord Granville; is that so?—Yes.

1067. Were those arrears from royalties due from mines?—No, I think not; they were arrears of different kinds; there may have been some mineral rents among them, but they were of a general character.

1068. Have you anything to add to the evidence given by Mr. James, with regard to his being appointed, as he described it, pro-chancellor, for the purpose of dealing with this particular subject?—No. I can state to the Committee that when Lord Granville was appointed, the very first step he took was to write to me directing that no matters affecting his personal interest as a tenant of the Duchy of Lancaster should be brought before him.

1069. Have you a copy of that letter?—I have; it is as follows: "As a tenant under the Duchy of Lancaster, I wish no business to be brought to me which affects my personal interests; I shall be obliged to Mr. Danvers if he will lay all such matters before the council in my absence, and I engage, as Chancellor, to follow the advice which the council may think fit to give. *Granville.* June 23, 1854."

1070. Did you make any reply to that letter?—I merely recorded it upon the minutes, and it was acted upon; the Queen subsequently issued her warrant appointing the pro-chancellor.

1071. It was found that the council could not act in the absence of the Chancellor?—Just so.

1072. Consequently the exact suggestion contained in that letter was one that could not be acted upon without the means subsequently taken?—Yes; and the warrant was not only signed by the Queen, but countersigned by the Chancellor.

1073. Mr. *Coningham.*] Was the fact of that letter having been written by Lord Granville communicated to Mr. Bertolacci?—I am sure I do not know whether it was or not.

1074. *Chairman.*] Was it entered on the minutes?—It was entered on the minutes.

1075. From the time that he had free access to those minutes, might he have seen it?—Yes; certainly.

1076. Mr. *Coningham.*] Was not that at the time Mr. Bertolacci was excluded from access to the minutes?—At that time Mr. Bertolacci had not free access to the minutes, and I do not think there is anything here that it was necessary to apprise Mr. Bertolacci of; I should have apprised him of it if I had thought so.

1077. Do you not consider that that letter of Lord Granville's is a distinct recognition of an authority existing in the council?—Lord Granville might have thought so at that time; he was new to the office; it was a day or two after he had been sworn in; but afterwards he thought there was not that authority. The first minute is the 21st of June, recording the Right honourable George Earl Granville being sworn in before Her Majesty, as Chancellor of the Duchy; and two days afterwards, the 23d of June 1854, "a communication of which the following is a copy, has this day been received from the Chancellor by the clerk of the council," and then it recites the letter which has been read.

1078. Viscount *Goderich.*] Who was present at that council?—Nobody; it is merely entered as a record.

1079. Had Mr. Bertolacci any conversation with you at any time upon the subject of Lord Granville's arrears?—No; I do not recollect any conversation which I had with him upon the subject: I do not say that we had not.

1080. *Chairman.*] Is it part of the duty of your office to prepare the Returns for Parliament?—They are prepared in the duchy office; that appertains more, I think, to the receiver-general's department; it is rather difficult sometimes, in a small office like ours, to define the duties of particular individuals.

1081. But do you consider that you, or the receiver-general, or his deputy, is responsible for the accuracy of the figures contained in the returns to Parliament?

ment?—I think the receiver-general is responsible, and the auditor when he has audited them.

1082. Viscount *Goderich.*] Whom do you consider to be responsible for the form in which the accounts presented to Parliament are drawn up?—The Act of Parliament requires them to be furnished in such a form as shall be prescribed by the Treasury; and the present form, with very slight modifications which have taken place since, with the sanction of the Treasury, was prescribed by Lord Monteagle, when he was Chancellor of the Exchequer.

1083. Was the form suggested by the office to the Treasury?—No; it was rather suggested by the Treasury; at that time it was thought desirable that the accounts of the Duchy of Lancaster, and the accounts of the Duchy of Cornwall should, as far as possible, resemble each other.

1084. Are you aware that there are very considerable differences between the forms of the accounts of the Duchy of Cornwall and those of the Duchy of Lancaster?—I observe now that they are very different in form, but we have received no instruction from the Treasury to alter our form of drawing up the accounts.

1085. Mr. *J. Hans Hamilton.*] Your books show the amount of the arrears?—We have them in the office; and though the accounts furnished to Parliament do not show them in detail, I think the accounts of the receiver-general which are declared do show them in detail.

1086. *Chairman.*] Do you remember Mr. Bertolacci having a conversation with you with respect to the bankers' pass book, in July 1854?—Yes, I recollect it perfectly well.

1087. Have you any information to give to the Committee upon the subject of the application to see the bankers' pass book?—Yes, I have; I should state that the bill is the form in which the grant is made to pass the duchy seal; it is not necessary that the consideration money should be paid before the bill is signed. By the certificate of the bill it is said: "May it please your Most Excellent Majesty;" this is a grant to pass the seal of the Duchy of Lancaster, making such a grant to so-and-so upon such a sum being paid, so that it is not necessary the amount should be paid when the bill is signed. The bill is merely a copy of what the grant, which afterwards passes the duchy seal, is. On now referring to the bankers' pass book, however, I find that both the sums alluded to in this question were paid; and the reason why I did not find at that time the sum of 850 *l.* on looking through the bankers' pass book was this, that the sum of 850 *l.* does not appear of itself, but is composed of two sums, 350 *l.* and 500 *l.*, which clearly explains the circumstance. I was running my eye down the columns to find a sum of 850 *l.*, and Mr. Bertolacci himself says, that a day or two afterwards it was shown him.

1088. Lord *Harry Vane.*] I suppose there were two separate bills?—I believe so; the other sum was clearly seen, because it appeared in one sum, the sum of 663 *l.* 10 *s.*; there was no difficulty in finding out that.

1089. *Chairman.*] It is stated that you told Mr. Bertolacci, that it was unusual, as well as inexpedient, for him to communicate directly with the bankers of the receiver-general; are you still of the same opinion?—Yes; I do not think the auditor can have any right to refer to the receiver-general's account book, not as a matter of right. I believe formerly, when Mr. Bathurst was receiver, he had one banker for his own account and that of the duchy. The receiver-general is not responsible to the auditor for the way he keeps his bankers' book. Now, however, the accounts are completely separated. General Fox, I happen to know, has a private account at Coutts's, and the other account is kept quite distinct, and not a sou can be drawn out of that duchy account by the receiver-general; it is all done by the warrant of the Chancellor.

1090. Do you know the date when that alteration was made, and the sum received and paid on account of the duchy was kept as a separate account?—Yes, I think it was when Mr. Bathurst ceased to be receiver-general.

1091. A date before Mr. Bertolacci was appointed auditor?—Yes, about the year 1826.

1092. At the time Mr. Bertolacci was auditor, would it have been possible for the receiver-general to withdraw any portion of the money standing in his name on account of the duchy for his private purposes?—Quite impossible.

1093. Do I rightly understand you to say, that he was unable to draw money from that account without a warrant from the duchy?—Certainly.

1094. Mr. *Coningham.*] Why did the bankers treat it as a private account?—

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I do not think the bankers meant to treat it as a private account; but I believe it is very unusual for a banker to show any account to a person going and inquiring. In the first place, the bankers might or might not know Mr. Bertolacci to be the auditor; I believe he took no proof that he was auditor of the duchy; and, in the next place, if he had, I do not think it is usual for a banker to show any account without the authority of the person whose account it ostensibly is.

1095. Is there not a duplicate banker's book?—Yes.

1096. Have you got it?—Yes (*producing the same*).

1097. *Chairman.*] Do you recollect some correspondence passing between yourself and Mr. Bertolacci with regard to the accounts to September 1854?—Yes, there were some letters passed.

1098. Do you remember a conversation passing between yourself and Mr. Gooch and Mr. Bertolacci, in the presence of Lord Harrowby?—Yes; I remember the occasion.

1099. Do you recollect Mr. Gooch looking at you and saying, "You know Lord Granville said the account was not to be rendered to Mr. Bertolacci," or words to that effect?—I know Lord Granville's instructions were that the accounts should not be furnished until the account of the previous year had been audited, for it was a matter of surprise to everybody connected with the duchy that the account of 1854 should be required for the purposes of check to the account of 1853, the preceding year; and I believe the deputy receiver-general will tell you that the account of 1853 was actually wanted in the office for the purpose of preparing the subsequent account; it could be made up without it, but it would facilitate very much, of course, having the former account to refer to.

1100. Was that the reason why Lord Granville directed that the account of 1854 should not be rendered to Mr. Bertolacci?—I believe there was no other reason whatever.

1101. Mr. *Coningham.*] When you speak of Mr. Gooch as the deputy receiver-general, he is merely a clerk in reality, deputed by the receiver-general to act for him?—Mr. Gooch is first clerk in the duchy office, and on the occasion of the local receivers (which there were formerly who collected the rents in the country) being abolished, which has been gradually the case as they have died off, it was necessary to appoint some one to collect the rents for the receiver-general, and therefore Mr. Gooch was constituted his deputy for that purpose, and he goes into the country to collect the rents; and a very excellent arrangement it has been, for it has been not only a direct saving to the duchy, but it has put Mr. Gooch in direct communication with the duchy tenants, which has been found to be highly useful in the office.

1102. *Chairman.*] Is it the fact that for want of the audited accounts during the year that Mr. Bertolacci was auditor, the Returns to Parliament were delayed?—Yes.

1103. Are you able to tell us how long they were delayed?—They ought to have been sent in within a month after the meeting of Parliament, and I think they were not sent in till August.

1104. Is it the fact that that delay occasioned some inconvenience in the office?—Yes; and not only inconvenience in the office, but it obliged the office to appear to be doing that which they ought not to have done, namely to delay sending in the accounts.

1105. Mr. *Coningham.*] Did not you just admit that the account might have been made out without the previous one?—With difficulty; it occupied much time of course, because it is very useful to have the account of a preceding year in framing the account of a succeeding year, as the succeeding account must be based upon the former account with very few variations.

1106. Still you admit that it would have been possible?—Yes.

1107. *Chairman.*] The Return to Parliament must be a return with the signature of the auditor?—It ought to be: I do not think the Act of Parliament absolutely requires it.

1108. Although you could not obtain the audited account from Mr. Bertolacci, and although you might have been able to make it out afresh from the materials in the office, would you have considered yourself justified in laying such a Return before Parliament that year without the signature of the auditor?—Yes,

—Yes, I believe it was actually done; it was thought better to do that than that the account should not be rendered.

1109. Viscount *Goderich.*] Is it the case that the earlier of these accounts, those of 1849 and 1850, are signed by the auditor?—No; the auditor signs the account of the receiver-general, which is afterwards declared before the Chancellor.

1110. It is not so necessary as to have been the universal practice that these accounts should be signed by the auditor?—No; I believe it has been so latterly.

1111. I understood you to say that Lord Granville did desire that the account of 1854 should not be given to Mr. Bertolacci till he had returned the account of 1853; was that the case?—Yes.

1112. Mr. *Coningham.*] Then none of Mr. Bertolacci's predecessors signed any of the accounts laid before Parliament?—No; only the accounts declared before the Chancellor.

1113. Viscount *Goderich.*]—Do you think that it is correct to say that the receiver-general's account for the year from 30 September 1851 to the 29 September 1852 had not been declared until the month of May 1854, for the purpose of giving an opportunity to Lord Granville to pay the arrears of rent due by him?—I am not able to state that it was so.

1114. Mr. *Coningham.*] Do you think it an incorrect statement?—I really do not know whether it is correct or incorrect. There are many things that have occurred in the course of this examination that I should have remembered very clearly if I had expected this inquiry.

1115. Lord *Harry Vane.*] Therefore you have no positive knowledge upon the subject either one way or the other?—No.

1116. Mr. *Bramston.*] That question can be better answered by another officer of the duchy?—Yes.

1117. By whom?—By the deputy to the receiver-general.

1118. Mr. *Coningham*]. Has there ever been a conversation between you and Mr. Bertolacci upon the subject of the additional members appointed by Lord Campbell in 1844?—I do not remember having a conversation with Mr. Bertolacci; I do not mean to say that I had not, but I really have no recollection of it.

1119. Did not you tell Mr. Bertolacci, when he wished to know why these noblemen and gentlemen were added to the council, that the Queen thought the Chancellor should not act alone?—I do not recollect having stated that; but that is rather at variance with the statement of Mr. Bertolacci in a letter which was put in in his last day's evidence, at page 9, No. 5 of the Appendix, dated the 10th of March 1855, which he wrote to Lord Granville: "The clerk of the council has stated to me that the Queen took no part in the appointment of members of the council, and that they were such noblemen and gentlemen as the Chancellor thought fit to call to his advice." I beg to observe that I could not, by any possibility, have stated that, as regarded what we termed the new members of the council, inasmuch as I had the honour of swearing in those noblemen and gentlemen by the express command of Her Majesty, in the Royal presence. There must have been misunderstanding.

1120. Then the auditor was the only member of the council to advise the Chancellor, and check any misapplication of the duchy property?—No; I should think there was the surveyor-general.

1121. In the schedule of the Act of 9 Geo. 3, c. 45, is not the auditor mentioned as having some functions to perform in the disposal of the duchy property?—There is a list of fees for grants of rents, and for enfranchisements, and in that I see there is, "To the auditor, for the particular and certificate, 5 *s.*; and a further charge of 1 *s.* for every 30 words in excess of 60 words in the description of the parcels."

1122. Showing thereby that the auditor was a recognised officer, and the particular a recognised document?—Yes, at that time.

1123. Are there not some Acts which limit the powers of the Sovereign over the duchy property?—Yes; the 1st of Queen Anne limits the power of the Sovereign very much.

1124. Can the Sovereign sell the estates of the duchy, and apply the proceeds to her yearly income and expenditure?—Certainly not.

1125. Then the Sovereign has not an absolute power in the management of the duchy?—No; and when on one occasion I informed Mr. Bertolacci that the

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duchy was the Queen's private property, I did not mean to imply that it was more than an entailed estate upon the Sovereign.

1126. Do you think that the Sovereign can constitutionally delegate to a subject powers which she does not herself possess?—No, I should think not; but I am not aware that that is done in any case.

1127. Then, do you consider that the Queen, in the patent she grants to the Chancellor, directing him to manage the duchy property, does so subject to the provisions of existing Acts of Parliament?—Certainly.

1128. Can you point out anything in the charters of the duchy or the Acts of Parliament of a later date which show that the Chancellor and the council are the same person?—No; I do not think any Act of Parliament defines that at all. The Chancellor and council, I take it, are mentioned in Acts of Parliament just as the Lords Commissioners of Her Majesty's Treasury would be in an Act of Parliament affecting the Crown.

1129. Will you point to any one of the Acts of George the 3d, in which Parliament has legislated, and used the words "Chancellor and council," which show that it was intended that those words should not be read as they are written?—No, there are some Acts of Parliament in which the Chancellor and council are mentioned, but I do not think it is to be inferred from that that the terms were at variance with the construction which is now put upon the words "Chancellor and council."

1130. Can you, without breaking your oath of office, inform the Committee what the nature of the subjects are which require secresy?—I really do not know that there are any matters discussed at the council which require secrecy, and I may take this opportunity of stating that the Chancellor of the duchy has not only authorised me, but has instructed me to give every information that may possibly be required by this Committee.

1131. If that be the case, why then was the late auditor so long excluded?—I do not think it was ever intended, at the time of his appointment, that he should be a member of the council. I do not think the Chancellor required any addition to the council; I believe Lord Belper will state that his great object was to get a gentleman to audit the accounts.

1132. Can you state the exact period when Mr. James presided at the council for Lord Granville?—I see that there was a council held on the 13th of December 1854, at which were present the Chancellor, the Earl of Hardwicke, Lord Portman, Colonel Phipps, the Right honourable Edward Strutt, the attorney-general of the duchy, and the vice-chancellor of the county palatine. To the close of the business of the day, with the exception of a matter relating to the renewal of the Newcastle-under-Lyne mineral lease, the Chancellor had presided. He then left the council, and all the other members whom I have named remained. And a warrant under the Royal Sign Manual, bearing date the 6th day of December 1854, authorising and empowering the vice-chancellor of the county palatine to advise and determine in respect of any matter or thing relating to or affecting the interests of Earl Granville as lessee of minerals within the manor of Newcastle-under-Lyne so long as his Lordship shall hold the office of Chancellor of the duchy, or until Her Majesty's pleasure to the contrary shall be signified; provided that all matters relating to the lease or leases of the said minerals during the chancellorship of Earl Granville be considered and discussed in and by the council of the duchy; being read, the vice-chancellor took his seat at the head of the Board, and the council then proceeded to take into consideration the report of Mr. Woodhouse, and so on. The council regarding the peculiar situation of Lord Granville as Chancellor of the duchy, and also as a tenant of the duchy, thought it better to have a second party consulted independent of the gentleman usually employed to value the minerals, and that was done.

1133. In your correspondence with Mr. Bertolacci, did you ever mention to him what was taking place respecting the renewal of Lord Granville's leases of the mines of the duchy?—I do not recollect ever having done so. I think the lease did not pass in Mr. Bertolacci's time. It took some time to go through all these proceedings, and bring the valuations under the consideration of the council.

1134. Can you tell me on what date the subject of Lord Granville's renewal of leases was concluded by the council of the duchy?—I see this minute on the 24th of September 1855: "Mr. Lowndes (who was Lord Granville's agent) having

having accepted, on behalf of Earl Granville, the terms for the renewal of the leases of coal and ironstone within the manor of Newcastle-under-Lyne, as set forth in the minute of 13th December last, but declined the terms for extension of the demise to mines within townships not named in the leases of 12th October 1839, it is ordered that drafts of the new leases be prepared accordingly by the solicitor of the duchy, and that the same, when prepared, be submitted to the conveyancing counsel of the duchy, in conformity with the minute of this court of 13th December last, as to the mode of passing mineral leases. Signed, Harrowby." That was after Mr. Bertolacci had ceased to be auditor, and therefore there was no occasion to bring the matter before him.

1135. Do the members of the council receive any salaries or emoluments as members of the council?—The official members receive a salary in respect of their offices.

1136. Do the new members receive any salary or emoluments?—Not at all.

1137. At your last examination you stated that you had been constituted the sole trustee for the distribution of grants, by Her Majesty, of property which had escheated to her in right of her Duchy of Lancaster. Will you allow me to ask, without casting any imputation whatever upon anyone, supposing that either yourself, or anyone else who might have been appointed sole trustee, to realise and distribute the property in such cases, either sold it for less than its actual value, or did not distribute the whole amount of the proceeds of the sale, would there be any check on you or on him; and if so, who would be the check?—I think that if this property had been sold beneath its value, the parties equitably interested under the Queen's distribution would have had reason to complain; and they would have complained, no doubt, if they had thought that the property was sold below its value.

1138. Viscount *Goderich.*] But the Crown would not have suffered?—No; the Crown would not have suffered; but I take it, that as a trustee, I was equally bound to care for the interests of the parties for whom I held the property.

1139. *Chairman.*] Are you able to inform the Committee what was the quantity of the land which was passed by the bill to the Duke of Newcastle?—One hundred and seventy-two acres and 10 perches.

1140. Was it in one lot, or was it dispersed?—It was in eight or nine lots.

1141. Viscount *Goderich.*] What was the size of the largest lot?—Sixty-six acres two roods and six perches.

1142. *Chairman.*] In what part of the country was the property situated?—In Nottinghamshire.

1143. Whereabouts in Nottinghamshire?—In a place named Bassitlaw.

1144. What was the price given for the property?—£. 4,219. 6*s.* 6*d.*, after deducting the interest that his Grace had under existing leases; and in order that the reversioners of duchy properties should not suffer, an Order of Council passed that the amount of the value of the Duke of Newcastle's interest in the property should be invested, from time to time, till the whole sum would be realised to which the valuation came; but this 4,219 *l.* is after deducting that.

1145. Can you tell the Committee what was the full valuation without making that deduction?—£. 581. 13 *s.* was deducted from the gross valuation, so that that sum being added to the 4,219 *l.*, would make up the full sum.

1146. About 4,800 *l.* was the total value put upon it?—Yes.

1147. £. 581 of that represented the interest that the Duke already had?—Yes.

1148. The 4,219 *l.* was the sum which he paid to obtain it in fee?—Yes, and I observe that the minute directs that after investment of the purchase-money the interest thereon be from time to time also invested until the said sum of 658 *l.* be added to the funded property of the duchy. I wish to explain what appears to be a discrepancy. Though we had estimated 581 *l.*, we referred the matter to Mr. Morgan, the actuary, and he had calculated it at 658 *l.*; so the council thought it but right that the largest sum should be taken to be invested. It may not be improper here to state that though the Duke of Newcastle was a member of the council, as has been mentioned by Mr. Bertolacci, at the time this sale was made to him, he did not once attend any of the councils at which the matter was discussed, and he merely communicated with the duchy as any ordinary purchaser would have done.

1149. Viscount *Goderich.*] Do you consider that the property was sold at its

full value?—It appeared so from the return of our surveyor, to whom it was referred.

1150. Mr. *Coningham.*] Do not you consider this a very singular and unusual practice, that the Chancellor on one occasion and a member of the council upon another, should retire from the council while those negotiations in which their personal and pecuniary interests were affected were discussed?—If I had been in their situations I should have done just the same thing; that is the only answer I can give to that question.

1151. Viscount *Goderich.*] Do you think it was to the advantage of the duchy that the property should be sold?—Very much so; and if a map were exhibited to the Committee, they would, I am sure, see the matter in the same light. The property was very much subdivided. It was just that sort of property that the Act of the 48th of George the Third gave authority to the duchy to sell.

1152. *Chairman.*] Had the Duke of Newcastle at that time a lease of the whole of this property?—Yes; I believe that the only reason for taking the lease was that it was so intermixed with his other property. It was the late Duke of Newcastle's property.

1153. Mr. *Coningham.*] Then of course this property being intermixed with his other property, it increased the value to him?—Certainly. I take it that he would not have bought it if it had lain remote from his property.

1154. Small parcels of property like that are very often increased in value by being contiguous to a large property?—Certainly; it is desirable that the possessor of the adjoining property should have them, because it prevents nuisances and inconveniences from other persons coming upon those properties.

1155. Viscount *Goderich.*] Was the lease granted to the late Duke of Newcastle?—Yes.

1156. Was he a member of the council of the duchy?—No.

1157. Then the present Duke of Newcastle inherited the lease?—Yes, he inherited the lease.

1158. *Chairman.*] It has been stated to the Committee, that the sums paid yearly to the clerk of the council as salary make together a total of 1,342 *l.*, whereas in the accounts previously presented to Parliament, sums making about one-half only of that amount, have been entered in such returns as having been paid to that officer; have you any information to give to the Committee upon that point?—Yes; the accounts returned to Parliament represented what were the revenues of the duchy, and what were the sums paid out of those revenues. The fee fund not being a part of the revenues of the duchy, it had been thought desirable, and had been so ordered by the court, that the two should be kept separate, the duchy revenues being charged with so much only of the salaries as were actually paid out of the revenue, a portion was paid out of the fee fund, and the remainder out of the revenue.

1159. Lord *Harry Vane.*] You mean that the persons with whom you had transactions paid a fee to the officers?—Yes, that is the meaning of the fee fund; fees were paid by certain parties, which were carried to a fee fund account; that fee fund account paid the salaries as far as it would go. If that was not sufficient to pay the salaries, the amount was made up out of the duchy revenues, by an order of the court, and only that proportion of the salaries appears in the receiver-general's account; the whole now does; but the actual revenue is in consequence of the change not so clearly shown; the amount of the fee fund is however now paid over to the receiver-general, which has this advantage, that it shows exactly what the salaries of the officers are; but, on the other hand, it shows what is more than actually revenue.

1160. It is a fixed salary now?—Yes; that alteration was made in Lord Clarendon's time.

1161. Viscount *Goderich.*] When was that change made in the mode of stating the account?—Lord Harrowby directed it.

1162. Mr. *Coningham.*] Were not the sums paid by the duchy to the fee fund to make up the commuted allowances?—Yes, and those divided among the officers appear in the discharge part of the account.

1163. Viscount *Goderich.*] Can you give the Committee any precedent for the dismissal of an auditor?—I can give you several precedents of officers who hold during pleasure. I would refer to the steward of the manor and liberty of the Savoy; some years since his patent was superseded by the appointment of another

another person; another is a late surveyor-general for the north parts of the duchy.

1164. Mr. *Coningham.*] Can you give the reasons for their dismissal?—Yes, I can do so if it is desired by the Committee. I may add, that the Chancellors of the duchy are always superseded by another patent. There was a case of dismissal also of a late land steward of the duchy, and surveyor of woods, and also of the steward of the honor of Clare. In some instances they were for misconduct; in others because certain new arrangements were made in the management of the duchy matters in which they were concerned.

1165. Was not the making out of Mr. Bertolacci's patent postponed until Mr. Lockhart's resignation?—I do not know; I see that that appears in Mr. Bertolacci's evidence, but I am not aware of it; all that I had to do was to make it out when I was instructed.

1166. Did not Mr. Strutt make some direct allusion to the fact of Mr. Lockhart's non-resignation being a hindrance in the way of Mr. Bertolacci's patent being carried out?—I do not recollect that.

1167. *Chairman.*] Do you know whether any previous auditor before Mr. Bertolacci was allowed to exercise his office by deputy?—No, I think not, except in cases of illness. Almost all the patents give an implied authority to the patentees to exercise their office by themselves or their sufficient deputy or deputies; but of late years the custom of appointing deputies has very much gone out, and it has been limited to the cases of people not being able to attend to business for times during illness or necessary absence.

1168. So far as your own knowledge or experience goes, has there been any case of a deputy appointed by any officer holding under a patent during pleasure?—Yes; in the cases I have mentioned, during illness.

1169. But no other?—I do not recollect any other; General Fox appoints a deputy as receiver-general; but I think his is a life appointment; but the object of that is to obtain some one to collect rents.

1170. Lord *Harry Vane.*] To do the duties, in fact?—Yes; which were formerly performed by particular receivers.

1171. Viscount *Goderich.*] Mr. Bertolacci has stated that he asked you to allow him to have a separate room at the office, and that you refused him a separate room, while there were rooms that he might have had; have you any thing to state to the Committee upon that subject?—I think that that is a mistake; I tried to think what rooms there were, and the only room that I could think of was the messengers' room, which I did not like to offer him, but which he did occupy afterwards.

1172. *Chairman* (to Mr. *Bertolacci*).] Will you be good enough to state your view upon this matter?—There were two rooms, one next to the Board-room, and next after that came the messenger's hall, where the messengers sat, and after that there was a third room; it was the third room that I applied for; I believe it was used occasionally as a waiting room, but there was a hall besides, where people could wait, and that room I did occupy for some time, till I received Lord Harrowby's letter of supersedure, and then I went there, and found all the books removed; in the meantime every night I locked the door, and gave the key to Mr. Danvers' clerk, and the next day I received the key of that particular room in which the papers were, sealed up in the same way.

1173. Was that the messengers' room?—No; I never understood it to be the messengers' room; it was used sometimes as a waiting-room; the messengers were in a kind of hall, between that and another small room, where the clerk to the solicitor, I believe, sits, and Mr. Danvers himself occasionally during office hours, so that there was no objection to my having it after office hours.

1174. (To Mr. *Danvers.*) Have you any explanation to offer to the Committee upon this subject?—I should state that it was the waiting-room, but it was the only room; the room next to the Board-room is the room occupied by the solicitor and his clerk, and another room is the room of the clerk of the records; so that really there was no room that I could state was at liberty to place Mr. Bertolacci in.

1175. Having heard the explanation which Mr. Bertolacci has given of what he meant, what have you to say upon the subject?—Merely that I think there was only this waiting-room that I was at liberty to offer him.

1176. And you did not conceive that it was a suitable room for him?—I did not, indeed; and it was attended with some inconvenience too, because that

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room was locked up, and there was no waiting-room to show any gentleman into who came to the office, and hence the necessity of removing the papers as soon as we found that they were not required to remain there; it was very inconvenient its not being used as a waiting-room.

1177. Mr. *Coningham.*] The solicitor's room was only occasionally used, was it?—Yes, every day; he is not there after four o'clock, but his clerk is occasionally there after four o'clock, so that I did not feel justified in saying that the room was at liberty.

1178. *Chairman.*] If that room had been assigned to Mr. Bertolacci, would there have been a waiting-room into which persons coming to transact business could be shown?—No; they must have been shown into one of the offices.

1179. The delay in auditing the accounts by Mr. Lockhart, arose from illness, as was stated by Lord Harrowby?—Yes.

1180. Why did not he appoint a deputy to perform his office for him?—That is a question that I really cannot answer; I am not sure that he did not appoint some gentleman in the office; I rather think he did appoint one. I was once appointed to audit the accounts for him.

1181. Mr. *Coningham.*] Then why were those accounts left unaudited?—It was intended more for the minor accounts, not that I should perform the general duties of the auditor, certainly; my time would not admit of that.

1182. *Chairman.*] Will you state to the Committee any remarks that you have to make with reference to the evidence which has been given before the Committee?—I will turn the attention of the Committee to No. 36, in which this question is put to Mr. Bertolacci: "Were you made acquainted with the form of oath before it was administered to you on the 15th of May 1854?" To which he replies, "I was not made acquainted with any form of oath." I have only to state, that if Mr. Bertolacci had asked to see the oath and the draft of the letters patent, which he also says he had not seen, they would have been readily shown. It is not usual to see that, but anybody would have been shown it upon asking for it. Then Mr. Bertolacci says, in answer to Question 38, that it was three days after he was sworn into office before he got his patent. Now, the three days are easily accounted for. After the patent is engrossed, it has to be sent down to Preston to be sealed with the county palatine seal; after that it has to be enrolled in the books of the duchy office, so that I think the Committee will see that three days is almost as quick as it was possible to furnish it to him. At Question 41, Mr. Bertolacci states, that his exclusion from the council was, he conceives, unconstitutional. In reference to that, I would state that Mr. Bertolacci here assumes that the auditor is, as auditor, necessarily a member of the council, and that the auditor has to do with the management of the duchy property, both of which assumptions are at variance with the opinion of the law officers of the duchy, given on his own statement. At Question 62, it is stated that "since his exclusion from the council he has neither information of this kind, nor the opportunity or means of checking any application of the landed property of the duchy;" and in answer to this, Mr. Bertolacci says, "Certainly not." Now, I beg to say, that the auditor has always the opportunity of seeing that the grants and leases are in accordance with the minutes of the council, and beyond those his functions in this respect do not extend. Then Mr. Bertolacci states, in answer to Question No. 69, that "The deeds that he was required to sign stated, amongst other things, that the best price and consideration in money was obtained for properties which were sold," as if he was responsible for it. The object of his signature is set forth in the joint report of the attorney-general and the vice-chancellor, dated the 1st of December 1854. Then at No. 76, Mr. Bertolacci is asked, "Do you consider that as auditor you would have been justified in excluding from the accounts any such sums as being irrecoverable, without having the opportunity of making yourself thoroughly acquainted with all the past transactions and minutes relating to the duchy property?" to which he replies, "Certainly not." Now there was no reason why Mr. Bertolacci should not make himself acquainted with any transactions and minutes relating to those arrears which he found necessary. Then from No. 87 to No. 89, there are two or three statements made upon which I should wish to remark; the first of which is, "I was specially called upon by the clerk of the council to affix, after my name to the bill, the word 'auditor.'" Now, the only reason why Mr. Bertolacci had not to affix to his second signature the word "auditor," was because if it was affixed

to

to his first signature there was no occasion for a repetition; it had consequently not been usual to add the word "auditor" to the second signature of that officer.

1183. Mr. *Coningham.*] Was not the first signature put to the bottom of the bill without stating that it was a certificate?—Yes, the first signature was to the bill, which was an exact transcript of what the grant was to be, and to that the auditor signed his name, adding the word "auditor;" the certificate states that it is in pursuance of the Order of council, and against that there was no occasion that he should repeat the word "auditor," his signature having appeared upon the same document above. Then, at Question 93, Mr. Bertolacci observes, "With regard to one document, it was stated that I was expected to sign it, because I was bound in honour to do so." It was not because Mr. Bertolacci was bound in honour to do so; the Chancellor and Council felt that they were bound, after the proceedings that had taken place. Then, in answer to Question 101, it is stated that the auditor by affixing his name afforded to the Sovereign his guarantee of having ascertained that an equivalent in money had been accepted for the property; now, the Chancellor is responsible to the Sovereign, not the auditor, for the disposal of duchy property, and what it is sold for.

1184. Mr. *Coningham.*] The word "auditor" was attached to the first signature which was the document itself in which it was asserted that the best price and, consideration had been obtained for the property?—Yes, the whole particulars appeared in the bill, and that amongst others. In answer to Question 107, put by Mr. Coningham, Mr. Bertolacci states that he was asked to sign the bills without any previous intimation on the subject, and was expected to return them without seeing any minute of the court authorising such sales; I can only observe with reference to this question and answer, that if Mr. Bertolacci had any suspicion that I was without proper authority submitting a document for his signature, he had an opportunity of satisfying his doubts upon the subject.

1185. Lord *Harry Vane.*] In what way had he an opportunity of satisfying his doubts upon the subject?—By referring to the council minutes and seeing that they were in pursuance of those minutes.

1186. Viscount *Goderich.*] I understand you to say that you never refused Mr. Bertolacci permission to look at any particular minute upon which a bill was founded; is that so?—Certainly not.

1187. Mr. *Coningham.*] To what grant does that refer?—The Chairman puts this question: "The agreements with respect to which you remonstrated in that letter to Lord Granville, I take it to refer to several bills the system generally, I take it, Mr. Bertolacci intended that to apply to." The next question is: "When the first bills were sent to you by the clerk of the council for your signature, on the 8th June 1854, were you not asked to sign them without any previous intimation on the subject, and were you not expected to sign and return them without seeing any minute of the court authorising such sales?" To which Mr. Bertolacci replies, "I was." Now, I should have been too happy to show Mr. Bertolacci the minutes.

1188. Was not that a case in which there was no minute made or signed by the Chancellor?—If so, that is the case that I referred to before in answer to a question, in which I said that if Mr. Bertolacci did not rely upon my word as having the authority of the Chancellor to submit it to him, he was certainly at liberty to see the document, and I believe he did delay the signing till the document was actually signed by the Chancellor; I have no reason to complain of that if it was thought necessary.

1189. Do not the observations which you have been making refer to the letter of the 9th of June from Mr. Bertolacci to Mr. Strutt?—I referred to a communication of the 8th of June 1854. Mr. Bertolacci writes to Mr. Strutt, "I think that no instruments such as those alluded to in this letter should be submitted to the auditor for his signature, until the clerk of the council is in possession of an order signed by the Chancellor, stating that the property should be disposed of in the manner contemplated." Certainly that was Mr. Bertolacci's view, there is no doubt about that; and having that view, he declined signing upon my stating that I had the authority of the Chancellor, till the minute was signed; I do not complain of that.

1190. Did not Mr. Bertolacci first sign it, and then write this letter to the Chancellor?—Yes.

1191. Then you are mistaken in saying that Mr. Bertolacci refused to sign

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until you produced the authority signed by the Chancellor?—If I said that I am mistaken, certainly.

1192. But Mr. Bertolacci at the same time took the precaution of writing to the Chancellor to ascertain the fact?—So it appears.

1193. *Chairman.*] Will you proceed with any remarks which you have to offer to the Committee?—Mr. Bertolacci draws an inference at Question 110, that "the effect of Mr. Danvers' letter of the 8th of June 1854, would be to mislead as to the object of the auditor's signature to bills for grants of land of the duchy." I do not know what is meant by the effect of my letter being to mislead; if Mr. Bertolacci had any desire to know why his signature to the bill was required, he might have inquired for further information.

1194. Mr. *Coningham.*] Was not that statement made with reference to dispensing with the auditor's particular?—That "the effect of Mr. Danvers' letter of the 8th of June 1854, would be to mislead as to the object of the auditor's signature to bills for grants of land of the duchy." I am sure I had no intention to mislead, and I should be glad to know in what way I could possibly have misled.

1195. *Chairman.*] Have you anything to state to the Committee with regard to that part of what was stated by Mr. Bertolacci, in which he says, "that the effect of your letter was to mislead as to the object of the auditor's signature"?—I would simply state that I am not aware of anything in that letter that could have misled, and that certainly nothing was further from my intention than to mislead.

1196. Setting aside all intention on your part to mislead, do you think that the substitution of the signature of the auditor in the place of that which was formerly for the signature of the clerk of the council, the whole manner of the proceeding having been entirely varied in consequence of the auditor not having a seat at the council, was or was not likely to mislead any party as to the object of the signature of the auditor being so attached to it?—I really do not see that.

1197. Now will you go on to your next point?—At Question 113 Mr. Bertolacci states, "It appears to me that hitherto the whole management of the business has been thrown on the clerk of the council, who has acted without any of those official checks which are always established where pecuniary matters are implicated." I submit that this is a mistaken view of Mr. Bertolacci's, and is not supported by his evidence; I shall be glad to answer any questions that may be put to me on the subject. Then, at Question 144, "Did not the clerk of the council, by refusing you free access to the miuutes, constitute himself a judge of the degree of information the auditor should have in checking the accounts and proceedings connected with the duchy?" Mr. Bertolacci does not state what the subject is; but I submit that the clerk of the council did not, as here inferred, constitute himself a judge of the degree of information that the auditor should have; the auditor had simply to state the subject upon which he required information to act, and the corresponding proof would be shown to him. Then Question 145 is this: "The exclusion of the auditor from the council of the duchy was therefore the means of restraining his functions of check, and calculated to make him subservient to those he had to check?" and the answer is, "Yes." I do not see that at all. Then at Question 146 Mr. Bertolacci says, "No auditor, with such figures" (as are alluded to in the question) "placed under his investigation, could, I consider, conscientiously give a discharge to the receiver-general or any other accountant," on both the debit and credit sides sums amounting to so and so; that infers almost that the minutes would have given that information; now the minutes would afford no information respecting those balances. At number 175, in answer to the question, "Was it possible for the auditor to exercise a proper check on the due rendering of an account of these various monies without the free perusal of all the minutes of the duchy, or whilst the clerk of the council himself exercised the power of deciding what minutes related to the auditor's duties, and what minutes were to be withheld from him?" Mr. Bertolacci states, "It was not possible, and the assumption of those powers by the clerk of the council was, I conceive, unconstitutional and inconsistent with his relative position to the auditor." Now, I assumed no powers whatever in refusing a general access to the minutes until I had authority to show them. I consider that I should have assumed powers that did not belong to me had I acceded to Mr. Bertolacci's request without such authority; and I was ready, when I had the authority to show them. At Question 185 Mr. Lockhart's

Lockhart's office is alluded to as having been a sinecure; it might be inferred from this statement that Mr. Lockhart had neglected his duties as auditor; and I think it is due to that gentleman's memory to state that he always attended to the auditing of the accounts, except during the latter months of his life, when illness prevented his doing so. Then Mr. Bertolacci states, "I am required to sign the bills advising the Queen to give Her Royal assent to the sale of property, in consideration of sums paid, or to be paid, as the case may be, for such property." I would merely state, in reference to that, that the auditor, in signing those bills, is not the party advising Her Majesty. From question 188 to 193 allusion is made to the length of time that transpired before Mr. Bertolacci had free access to the minutes; I have only to observe, with reference to that, that it arose from the long vacation. A Council was not held between August and November. When the Council was held, before whom Lord Granville had already stated he would bring the question; the matter was brought before them, and decided; and I believe it is stated that it was six or seven days after the council had been held before I made Mr. Bertolacci acquainted with the result. I think the probable reason was, that I waited till the minutes should be fairly copied and signed, and after the length of time which had elapsed since the former council was held, there were of course several matters to be minuted.

1198. Mr. *Coningham.*] Is not that the same period alluded to in General Fox's letter, in which the blame is thrown on Mr. Bertolacci for not proceeding with the accounts?—Yes, I should think it was. On that question I can only say, that as Mr. Bertolacci had always, as I still maintain, the privilege and right of referring to all such minutes as were necessary in the discharge of his duties as auditor of the accounts, neither the receiver-general nor any one else considered that there was any real impediment in the way of the auditor examining the accounts from the reason he has assigned. The minute is, that "It being thought desirable that the minutes of council should be open to the inspection of the auditor in the prosecution of his duties, henceforth the auditor have access to the same." At Question 274 Mr. Bertolacci speaks of its having been sought to make him "merely a blind agent of the Chancellor and council;" I can only submit that this is not a construction which Mr. Bertolacci's own evidence authorises him in putting.

1199. Is not that assertion corroborated by your statement on Friday, that even if he, of his own knowledge, knew that there was fraud in a transaction, he would have no discretionary power?—I think he must have had a discretionary power. With regard to fraud, if a fraud had been discovered; his course would be, I should think, to acquaint the Chancellor.

1200. I understood you to say, in answer to a former question, that the auditor had no alternative but to sign, the responsibility attaching to the Chancellor?—Yes; at Question 369 Mr. Coningham says, "You have shown, upon the authority of Lord Coke, that the court of the duchy was composed of certain principal officers, one of whom was the auditor." I may add to that, one of whom is a messenger. In answer to Question 374, Mr. Bertolacci being asked whether he was called upon to sign any other bill, states, "Yes. On the 26th of May 1855 the clerk of the council placed before me a very long bill for grants of different pieces of land to the Duke of Newcastle, stating at the same time that it was necessary I should sign it without delay, as his Grace was going abroad; but on this occasion the clerk of the council said it had been decided that I should no longer sign the bills themselves, but merely the certificates at the foot of the bills." Now I hold in my hand a letter which I had written to Mr. Bertolacci, but did not send, because Mr. Bertolacci came to the office in the meantime. It is dated the 26th of May 1855: "I enclose for your signature to the certificate a bill preparatory to a grant in fee to the Duke of Newcastle, of some detached pieces of land in the county of Nottingham. As his Grace is leaving England about the end of this month, and wishes the grant to be completed before he takes his departure, I am desired by the Chancellor to request that there may be no unnecessary delay in returning the bill. It has been decided by the court that the bills on these occasions should be signed by the attorney-general and the clerk of the council, so that the auditor will only have to sign in future the certificates at the foot of the bills." That was not sent; but the contents of it were verbally communicated to Mr. Bertolacci when he signed the certificate to the bill.

1201. By this process, you were, in fact, performing the function of the auditor, as I understand, in signing the bill, which subsequently to 1844 was signed by the

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the auditor, and prior to 1844 was signed by the clerk of the council on the warrant of the auditor's particular?—Yes; it was thought advisable by the Court that the clerk of the council, as well as the auditor, should be a subscribing party to the bill, and therefore my signature was affixed to that of the attorney-general, and to the certificate of the bill the attorney-general and the auditor affixed their signatures. It was merely dispensing with one of the signatures of the auditor.

1202. What was the authority for your signature in lieu of the auditor's particular?—It was the authority of an order of court; I never signed the particular; but it was thought that as the clerk of the council had originally signed the bills, he should still sign the bills in one place, and the auditor in another; that was a link which it was thought desirable to be maintained.

1203. *Chairman.*] Have you any other points which you wish to bring before the notice of the Committee?—At question 400 it is stated by Mr. Bertolacci, that from the universal opposition which his inquiries met with from every one connected with the duchy, it appeared to him that the auditor was expected to be a mere nonentity, who would take everything for granted that was laid before him; I can only meet that by a positive denial of the fact. There was every disposition to give him information.

1204. In whose custody is the auditor's book of enrolment kept?—It is kept at the Duchy Office.

1205. In whose charge?—It is kept with all the other documents in the office; if the auditor had a separate department, it would be, strictly speaking, in the auditor's care; but that is not the case; as I mentioned before, the staff is small, and we cannot separate the books.

1206. Do you consider yourself responsible for the custody of that book?—Yes, certainly I do.

1207. All documents belonging to the office are in your custody?—Yes; as long as they are in the office, I consider myself responsible for them.

1208. Viscount *Goderich.*] It is stated in the evidence that it is in the custody of Mr. Gooch?—It is really in my custody; the books are in the room in which he sits.

1209. But they are not in his custody as deputy to the receiver-general?—No, nor is he responsible for them.

1210. But you consider yourself responsible for them?—I do, for all the books and documents deposited there.

1211. Mr. *Coningham.*] The entries are not made in this book under the auditor's immediate supervision and check, but by Mr. Gooch?—The emoluments are made by the clerks in the office.

1212. And checked by Mr. Gooch?—And checked by the clerks in the office. At Question 478, Mr. Coningham says, "Then, in fact, the auditors of the duchy have had no guarantee or check that the warrants and vouchers were genuine beyond the degree of confidence they chose to place in the integrity of the party who produced them as credit to his transactions." These documents must have been either genuine or forgeries. A warrant is, in fact, a double voucher, the warrant directing the sum to be paid to a certain party with that party's signature on the receipt of the warrant. I will produce two warrants in reference to one circumstance represented by Mr. Bertolacci, viz. that if he had parted with the vouchers, he had no guarantee that they would not be used again. Now, when Sir George Harrison was auditor, he marked the warrants with his own initials, so that if they were brought before him again, he would detect them at once, and it was very easy for Mr. Bertolacci to do the same thing. And Mr. Bertolacci alludes to my initials being placed at the corner as a guarantee to the bankers to pay, the initials being so placed at a suggestion of his. Now, these are warrants of the year 1829, and it will be seen that my initials are placed there at that time.

1213. *Chairman.*] Consequently Mr. Bertolacci is mistaken in supposing that it was in consequence of his suggestion that you put your initials?—Yes, just so.

1214. You produce an instance of a warrant, dated in 1829, upon which your intials are to be found?—Yes; and also that the then auditor made a mark upon the voucher that he might know it again if it came before him, in order to prevent fraud.

1215. Mr. *Coningham.*] Did the first warrant which you showed contain your initials?—

initials?—All warrants presented to the bankers for payment contain my initials, or they would not pay them, and they have done so ever since this period. *F. D. Danvers*, Esq.

1216. Was it then the seal or your initial that was a warrant to the bankers?—The seal was the actual warrant; but that the bankers might have this double check, I always affixed my initials. 13 July 1857.

1217. Viscount *Goderich.*] Do you believe that the bankers would not pay unless they observed your initial?—No. I have known instances where they have brought a warrant, to know whether they should pay it, to which my initials had not been placed, in cases where the deputy-receiver has paid them.

1218. Mr. *Coningham.*] The warrants which Mr. Bertolacci alludes to are those which Mr. Gooch took down into the country with him, and which appeared in the accounts of 1853, paid out of the rental?—I think those could not have been the warrants here alluded to, inasmuch as they did not contain my initials. they were not paid by the bankers, therefore they did not contain my initials.

1219. *Chairman* (to Mr. *Bertolacci.*) To what warrants were you referring in your answer to the question with regard to the signature of Mr. Danvers?—I alluded to the warrants which Mr. Gooch, acting as deputy to the receiver-general, took down with him into the country, and paid out of the sums that he received for rent, and which warrants appeared in discharge of the liability of the receiver-general upon his account for the sums which had been received on account of rent, and to which I understand now Mr. Danvers admits his signature was not attached.

1220. (To Mr. *Danvers.*) What is your explanation of that matter?—I certainly admit that, for I never pretended to say that those warrants had my initials; those warrants are paid by the deputy receiver-general, not by the bankers.

1221. For what purpose did you affix your initials?—That the bankers might see what warrants were to be paid by them.

1222. Did you affix your signature to any warrant that was not to be paid by the bankers?—No.

1223. Is that the reason why those warrants which are here spoken of did not contain your initials?—Yes; there is an observation at Question 468, in which the accounts of the receiver of the green wax are referred to, and I do not know why, unless Mr. Bertolacci thought that they ought to be included in the receiver-general's receipts. Now, I will read an extract from the report of Sir George Harrison, the former auditor of the Duchy of Lancaster, upon this subject: he states, "The receipts of the collector of the green wax are of a very peculiar description, and require that sort of superintendence which it would be very difficult, if not impossible, for the receiver-general to execute; it must therefore be considered as forming an exception to the general arrangement for the gradual discontinuance of the office of particular receivers; but it will be seen that the present collector receives no poundage, the amount whereof is therefore a saving to the duchy revenue."

Martis, 14° *die Julii*, 1857.

MEMBERS PRESENT.

Mr. Bramston.	Viscount Goderich.
Mr. Coningham.	Mr. J. Hans Hamilton.
Mr. Sotheron Estcourt.	Lord Harry Vane.

T. H. S. SOTHERON ESTCOURT, Esq., IN THE CHAIR.

The Right Honourable Lord *Belper*, attending by permission of the House of Lords; Examined.

1224. *Chairman.*] DID your Lordship hold the office of Chancellor of the Duchy of Lancaster in the early part of the year 1854?—I did. I held it, I think, from December 1852 to June 1854. Right Hon. Lord *Belper*. 14 July 1857.

1225. Does your Lordship recollect the circumstances connected with the

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appointment of Mr. Bertolacci to the office of auditor of the duchy?—I do. I presume the Committee would wish to be acquainted with all the circumstances connected with that appointment; and as I should be glad to have an opportunity of stating them, perhaps the simplest course would be to narrate all that took place on that occasion. In the first place, when I was appointed Chancellor of the Duchy of Lancaster, I found there were still existing in the duchy certain offices more or less of the nature of sinecures. Some offices of that description had been abolished or altered by my predecessors; but a certain number of offices of that description still remained. It appeared to me that it was the duty of the Chancellor, when an occasion offered, to get rid of any office of that description; that if an office could be dispensed with altogether, an opportunity of any vacancy should be taken for abolishing it; but that if it appeared the office could not be dispensed with, but that there were duties attached to it, in that case the office should be put upon the footing of a working office, and such a salary attached to it as the extent of those duties required. I should also mention that my attention was called to the state of the accounts of the duchy. It appeared to me that those accounts had been kept with perfect regularity and accuracy, according to a form which had been prescribed some years before; but I thought that that form was not such as to convey the clearest information to the public respecting those accounts. I thought that improvements might probably be made in them, and that possibly additional checks might also be found useful. Now, the officer of the duchy to whom I should naturally have applied for assistance on this subject, was the auditor of the duchy. The office of auditor was at that time one which might be considered as partaking in some degree of the nature of a sinecure office. Mr. Lockhart, who was well known for his literary eminence, held, at that time, the office of auditor. It had, as I understood, been conferred upon him by my predecessor, the late Lord Granville Somerset, in consequence of his literary distinction. I need not say that Mr. Lockhart was a gentleman of the greatest respectability; and I am anxious to add that he discharged his duties as auditor, so long as the state of his health allowed, with strict punctuality and regularity; but at the same time I need scarcely state, that being a gentleman who had devoted his life to literature, he was not a person to whom I should have applied when the object was to reform a system of accounts. When however, not very long after, Mr. Lockhart, in consequence of the state of his health, resigned the office of auditor, I then thought that an opportunity had occurred of carrying into effect both the objects which I have mentioned, namely, that of doing away with the sinecure character of the office of auditor, so far as it partook of that character, and also of appointing some gentleman who would be well qualified for revising the accounts. My attention was therefore turned to the conditions which I thought should be made on a new appointment to the office. It appeared to me, in the first place, that the appointment ought to be made during pleasure. Formerly the appointments to the office of auditor had been for life, but on the appointment of Mr. Lockhart by Lord Granville Somerset, the appointment had then been made for the first time during pleasure. I understood that Lord Granville Somerset thought it important, with a view to any changes, to retain the power of dismissing that officer if he should think fit, and for the same reason I thought that I could not do better than follow the precedent which he had set: another object that I have already said I had in view, was to appoint to the office some person who had had great experience in public accounts, and who would be qualified to put the accounts of the duchy upon a perfectly regular and satisfactory footing, and also to recommend any additional checks that he might think necessary for enforcing due regularity in those matters. I thought that as the ordinary business of the auditor would employ but a small portion of the time of such a gentleman, it was desirable that some person should be appointed who had permanent employment in some other public office, and who might devote his leisure time to the duties of the office of auditor in the duchy; and I was of opinion that supposing such an arrangement could be made, 200 *l.* a year would be a fair remuneration for the duties of the office, and that therefore the salary, which had been previously 400 *l.*, might be reduced to 200 *l.* I may also say, that in coming to this conclusion, it was not merely from forming this opinion myself, but I had also the advantage of the experience of a similar change which had taken place in the Duchy of Cornwall. I learned from members of the council of the Duchy of Cornwall

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Cornwall that formerly the office of auditor there had partaken in some degree of the nature of a sinecure, but that they had recently made a change in this respect; and that Mr. Anderson, a gentleman of very high character, and of great experience in public accounts, who may possibly be known to some of the members of the Committee as holding an office in the Treasury, had been appointed in this manner auditor to the Duchy of Cornwall, and that the greatest benefit had been received from his assistance. The question then arose whether or not, supposing such a person as I have described were to be appointed, it would be desirable that he should be a member of the council. I found that in the Duchy of Cornwall an arrangement had been made, by which Mr. Anderson was not a member of the council, and I was disposed to think that such an arrangement would also be desirable in the Duchy of Lancaster; it must be obvious that a gentleman appointed from some public office, in consequence of his knowledge of accounts, might very possibly be a gentleman of great respectability and of great attainments for the purpose of his office, and yet might not be in that station which is usually considered as fitting for a member of the council of the duchy. Supposing, for instance, that a person, holding a subordinate situation as clerk in one of the public offices, was appointed to the office of auditor of the duchy, without meaning the slightest imputation upon the respectability of such a person, or the office he holds, it had not been usual to introduce into the council a gentleman holding a position of that kind; and it appeared to me that if the auditor, when appointed from the class which I have described, was to sit in the council, it would limit our choice, inasmuch as persons might be found who were of the greatest integrity and respectability, and who had a very competent knowledge of the accounts, but who yet would not possess the other qualifications that might be thought necessary for a seat in the council. It appeared further to me that if such a gentleman as I have mentioned were to be placed in the council, it might create another difficulty with respect to the duchy officers. There was a gentleman of great respectability who held the office of surveyor-general of the duchy; it was an office of great importance and responsibility; he had under his charge the whole of the duchy estates, and he was the adviser both of the Chancellor and of the council in granting duchy leases, and making various improvements of the estates, and in other matters of that kind, yet he had never held a seat in the council; but whenever his assistance was required, or whenever he wished to see the council, he had always access to them on the business of his office. Now, it appeared to me that, if when some accountant was appointed auditor of the duchy, he had been allowed to take his place at the council, a gentleman in the position of the surveyor-general might reasonably complain that he was entitled to a similar privilege. I therefore was disposed to think that the best arrangement to make, under the new appointment, was that the auditor should be placed in the same position as the surveyor-general of the duchy; that is to say, that he should not be a member of the council, but that he should have access to the council whenever his attendance was required on the business of his office, or whenever he himself desired to lay any matter before the council for his guidance. The next question which arose was, as to whether there was any legal objection to the auditor not being a member of the council. There was a question which I think has been already mentioned to the Committee, a passage, I think of Lord Coke has been cited. I presume that as the attorney-general has already given his opinion upon that subject, it is not necessary, having myself received a similar opinion from him, that I should go into that part of the subject. The only difficulty seemed to be that the auditors of the duchy had always hitherto been uniformly members of the council, but having consulted with the law officers of the duchy, I found that that difficulty might at once be got over, inasmuch as I learned that it was perfectly clear that the Chancellor had the power of summoning to the council only such persons as he should think fit, and that there was no doubt whatever that the issue of summonses to the council depended entirely on his own discretion. I believe that a legal opinion has been taken on this subject, but I did not think it necessary at that time to take a legal opinion upon it, inasmuch as I was assured by the law officers of the duchy, that it was a point which was clearly beyond all dispute or question. The next question which I had to consider was, as to the person who should be selected to fill the office. I did not make the arrangements which I have mentioned, without having a gentleman under consideration whom I thought most highly competent, and peculiarly fitted to fill this office; the gentleman to whom I refer

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I refer is Mr. Bromley, who is probably known to the Committee as a gentleman very high in the Civil Service, and who has held some very important offices. Mr. Bromley at that time held the office of secretary to the Board of Audit; this happened to be very convenient with reference to the new appointment which I proposed, inasmuch as the office of the Board of Audit is very near to that of the Duchy of Lancaster. I saw the Chairman of the Board of Audit upon the subject, and I ascertained from him that there would be no objection whatever on the part of the Commissioners of Audit to Mr. Bromley's taking this office of auditor, together with his office as secretary to the Board of Audit that, on the contrary, they would be very glad that he should have an opportunity of receiving such an appointment. I also obtained the consent of the Treasury to Mr. Bromley's holding this office with the office of secretary to the Board of Audit. I then sent for Mr. Bromley, and had an interview with him on the subject, in which I explained to him fully the changes which I intended to make in the office, and what the nature of his duties would be. I explained to him that it was intended to make the office entirely a working office, instead of its partaking, as it had hitherto done, of a sinecure character. I explained also that the salary was to be reduced from 400 *l.* to 200 *l.* a year; and lastly, I explained to Mr. Bromley, that though the auditors had hitherto sat upon the council, it had been arranged that in future the auditor was not to be a member of the council, but was only to be sent for on the business of his office, when his attendance was required for that purpose. Mr. Bromley expressed great satisfaction at receiving the office on those terms; he made not the slightest objection to any one of those proposals, but entered most cordially and satisfactorily into my views. I took the opportunity of laying before him some of the duchy accounts, and after he had looked into them, he gave me a short memorandum, mentioning some of the improvements which he thought might be made in those accounts, and which was perfectly satisfactory to me. I am sorry to say I have not a copy of it by me; it was merely a private memorandum, not an official report. If ultimately he had received the appointment, no doubt he would have made an official report, but this was only a private memorandum. I was perfectly satisfied with the arrangement which I conceived I had thus made, and I felt no doubt whatever that the office would be worked in a most satisfactory manner under Mr. Bromley. But just at this moment, when the appointment was about to be made out, I received information from Mr. Bromley that he had been appointed to an office at the Admiralty, and that during the war the duties of that office were so heavy that one of the conditions of the office was, that he should take no other employment whatever, and consequently he was unwillingly obliged to surrender the appointment which I had offered him of auditor of the Duchy of Lancaster. Under these circumstances, I felt myself placed in a considerable difficulty. I had relied upon Mr. Bromley, of whom I speak not from intimate knowledge, for my personal acquaintance with him was very slight, but from general reputation and from the opinion I had heard of him from personal friends who were perfectly well acquainted with his character and attainments. I was not aware of any other person in the service with respect to whom I possessed similar information, and therefore I was placed in some difficulty as to the appointment I ought to make. I conceived that under these circumstances such a person was most likely to be found in the revenue department, and that therefore the best course I could take was to go to the head of that department, the Chancellor of the Exchequer, to lay before him the difficulty in which I was placed, and request him to recommend to me, if he could, some person to fill the office in which I had hoped to place Mr. Bromley. I accordingly saw Mr. Gladstone on the subject, he being at that time Chancellor of the Exchequer; I stated fully to him what had taken place, and what sort of person I required for the office, in fact, I stated that I wished him, if he could, to recommend to me some person as like Mr. Bromley as he could find; he told me that at that time he could not recommend any person, but he was kind enough to say that he would make inquiries on the subject, and I should hear the result of those inquiries shortly. Accordingly, within a few days I received from him a note.

1226. Mr. *Coningham.*] Will you mention the date of your conversation with Mr. Gladstone?—I am not quite certain about the date of the conversation, but the date of Mr. Gladstone's note is March the 30th; and it is to this effect: "Dear Mr. Strutt, I have got, I think, the very man you want for your audit business

business at the duchy office, Mr. Bertolacci, of the Ordnance. His merits are well known to Mr. Anderson, Sir Charles Trevelyan, and Mr. Stephenson, and his appointment, should you think fit to make it, would harmonise very well with other arrangements. Yours most truly, *W. E. Gladstone.*" I ought, perhaps, to mention that not only was I perfectly unacquainted with Mr. Bertolacci, but I had never even heard his name till I received this note from Mr. Gladstone. Then, in consequence of that note, I waited upon Mr. Gladstone, and I had a conversation with him respecting Mr. Bertolacci. He gave me a very high character of Mr. Bertolacci, both as a gentleman of integrity and high character; and also as possessing a very extensive acquaintance with public accounts. He recommended that I should not be content merely with his recommendation, but referred me also to other gentlemen of the Treasury; amongst others, to Sir Charles Trevelyan, on whom I afterwards waited. Sir Charles Trevelyan confirmed, in the fullest manner, the account Mr. Gladstone had given; and either he or Mr. Gladstone, or probably both, mentioned, amongst other circumstances, that Mr. Bertolacci had been concerned in some very complicated accounts, I think in Ireland, and had been successful in recovering public money, which had been supposed to be almost irrecoverable. I was also referred to Mr. John Abel Smith and Mr. (now Sir John) Lefevre. I accordingly also saw both of those gentlemen, who confirmed the account which I had received of Mr. Bertolacci's character and qualifications. I was only anxious to mention these circumstances, because having appointed Mr. Bertolacci to the office without any personal knowledge of his character, a thing which was unavoidable under the circumstances which I have described, I was anxious to show that I had taken such means as lay within my power of ascertaining what his character and attainments were. Now, before I go farther, I should be glad to refer to one or two paragraphs in the petition, in which I think the petitioner has been led into an error. The first to which I refer is No. 11 of the petition, in which the petitioner states, "That the office was given to your petitioner in consequence both of public services and of testimonials of efficiency in the discharge of matters connected with the investigation of public accounts, and this fact was so stated on the 15th December 1854 by Lord Belper (then the Right honourable Edward Strutt), Chancellor of the duchy." Then the next is No. 75, "That by the communications which were made to your petitioner on the 31st of March 1854, and the 23d, 26th, and 27th of April 1854 (and which, if permitted, he will state to a Committee of your Honourable House) there could be no doubt at all of the fact, that the appointment as auditor of the duchy was given to him in consideration of his services." Then I will also call the attention of the Committee to No. 204 of the petition. "That for this purpose" (this is, I think, speaking of Lord Harrowby), "his Lordship had recourse to a stratagem, by stating that Mr. Strutt had no other object in appointing your petitioner as auditor than to secure an efficient officer to the duchy, and by making it appear that that gentleman had acted as a party independent of Government influence in placing the patronage of the duchy at the disposal of the Chancellor of the Exchequer." I would also call the attention of the Committee to question No. 485 in the evidence of Mr. Bertolacci: The question is, "Did not Mr. Strutt, at your first interview with him after you were appointed auditor, tell you that this office was conferred upon you in consideration of your public services? and the answer is, "That was the purport of his communication, and he stated that it had been upon the recommendation of Mr. Gladstone, the Chancellor of the Exchequer." Now the passages in the petition and in the evidence to which I have referred, would seem to imply that I had placed the office of auditor of the Duchy of Lancaster at the disposal of the Chancellor of the Exchequer to be used as a matter of patronage, and that in consequence of the Chancellor of the Exchequer so having the office at his disposal, he had appointed Mr. Bertolacci to the office in consideration of his public services. Now, of course, I knew nothing whatever (in fact, I had heard nothing whatever) of what might have passed between Mr. Gladstone and Mr. Bertolacci on this subject; but speaking simply for myself, I can deny in the most unqualified manner that I ever placed either the auditorship of the duchy, or any other office whatever connected with the duchy, either at the disposal of the Chancellor of the Exchequer or any other member of the Government; and I am also anxious to state that in consulting the Chancellor of the Exchequer with respect to Mr. Bertolacci's qualification,

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I applied to him simply as being the person who I thought was most likely to recommend a fit person for the office. The one and the sole object which I ever had in making the appointment (though Mr. Bertolacci seems to be under an error on this subject) was to obtain a fit person to perform the duties of the office; and with that view, and with that view only, I appointed Mr. Bertolacci to it. There is also another paragraph in the petition to which, before I go farther, it may be right that I should call the attention of the Committee; the passage is No. 74, in which the petitioner states, "That after the Chancellor of the Exchequer made arrangements in the month of March 1854, for the appointment of your petitioner to the office of auditor of the Duchy of Lancaster as a reward for public services in connexion with the Treasury, but before the 23d of April 1854, when your petitioner was first made acquainted with the office he was to have, Sir Charles Trevelyan had interviews at the Treasury with the then Chancellor, the Right Honourable Edward Strutt, and from what subsequently transpired your petitioner has reason to believe he very materially and unconstitutionally interfered, by inducing the Chancellor of the duchy to change that which had been settled by the Queen's sign manual, and in curtailing the powers of the office of auditor after it had been decided that your petitioner should hold it." Now, I think it but just to Sir Charles Trevelyan to state, that not only did he not interfere in any such manner, but that it never entered my mind to consult him upon any matter relating to the arrangements and offices of the duchy; and with respect to this particular matter, as to the auditor not sitting in the council, that had, as I have already stated, been settled long before, previously to my first interview with Mr. Bromley. Having received, as I thought, a satisfactory account of the character and attainments of Mr. Bertolacci, I some time after requested an interview with him, when he waited upon me at the office of the duchy. I then informed him of the character I had received of him from the Chancellor of the Exchequer and the other gentlemen whom I have mentioned; and I stated my wish to appoint him to the vacant auditorship of the duchy. I took care at the same time to inform him that the auditorship was in future to be made strictly a working office; I also informed him that the salary was to be reduced from 400 *l.* to 200 *l.*; and I further informed him, that it had been arranged that the auditor was no longer to be a member of the council. Mr. Bertolacci seemed to object to being excluded from a seat in the council, and certainly appeared to me to receive that part of the communication with dissatisfaction. I could not be mistaken, I think, upon this subject, because I was particularly struck by the contrast between the manner in which he and Mr. Bromley, who at that time held a higher position in the civil service than Mr. Bertolacci, received that part of my communication. I endeavoured, however, to explain to Mr. Bertolacci that there could be nothing derogatory to his character or his position in receiving the office upon those terms. I explained to him that he would then be placed in precisely the same position as the surveyor-general of the duchy, who was a most respectable and efficient officer; and I also explained to him that he would have access to the council whenever the business of his office required his attendance. I cannot say whether at that time I satisfied Mr. Bertolacci, but the interview ended by my informing him that the office was only offered to him upon that condition, and that upon that condition only it could be accepted; Mr. Bertolacci then retired, expressing his intention to accept the office upon the terms I mentioned to him. With reference to this part of the subject, I should be glad to refer to question No. 23 in the evidence. The question is asked, "Then he" (that is speaking of myself) "gave you to understand that you were not to be a member of the council?" The answer to that is, "His expression was in very indefinite terms; he told me that I should only be summoned to the council when the duties of my office required it; he did not tell me that it was indefeasibly from the office of auditor that Mr. Lockhart was a member of the council." I should also like to refer to question No. 70. "Am I right in inferring from the evidence which you now give, that when that office was offered to you by Lord Belper, and when you accepted it, you supposed it to be what is ordinarily understood by the word auditor; and that, therefore, when Lord Belper gave you to understand that you were not to have a place in the council, it did not strike you as being contrary to what you would naturally have expected when the office of auditor was given to you?" The answer to which is, "Decidedly so; he gave me to understand, not in positive terms, that I should not be at the council,

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council, but that circumstances might arise which would require me to be at the council; it was, in fact, in very indefinite terms." Now I am not able to explain what are the indefinite terms which I am supposed to have used upon this occasion. It is very possible that in the course of that conversation I may have declined stating the reasons for my having determined that the auditor should not be a member of the council. But of this I am perfectly certain, that I did distinctly explain to Mr. Bertolacci that the power rested with the Chancellor, and that my decision was that he should not sit upon the council, but that he would have free access to the council to lay before them any matters which the duties of his office might require. In answer to what he says that I did not tell him, "that it was indefeasibly from the office of auditor, that Mr. Lockhart was a member of the council," I can only say that, if it had not been supposed that Mr. Lockhart had been a member of the council in consequence of his being auditor, if that had not been the case, there would have been no matter at all to have explained to Mr. Bertolacci. If it had not been the practice to appoint the auditor to a seat in the council, I should not have conceived that any explanation whatever would have been necessary from me to Mr. Bertolacci upon the subject, whether Mr. Lockhart had held a seat in the council in any other capacity or not. At the same interview I showed to Mr. Bertolacci the memorandum which had been made by Mr. Bromley, thinking it might be of use to him in making arrangements in entering upon his office; and I stated at the same time that I had previously offered the office to Mr. Bromley, but that he had been unable to accept it, in consequence of his appointment to an office under the Board of Admiralty. I think it necessary to refer to this in consequence of question No. 120. There the question is asked of Mr. Bertolacci, "Had Mr. Bromley anything to do with the Duchy of Lancaster, or was there any idea of his becoming connected with that office?" His answer is, "I believe Mr. Bromley had nothing to do with the Duchy of Lancaster, but I heard that he was anxious to become the auditor; however, in consideration of the intention to appoint him to the office of Accountant-general of the Navy, it was thought unnecessary to give him the additional office of auditor to the Duchy of Lancaster." Now I think it due to Mr. Bromley to state that I think that answer does not convey a correct impression of the facts; that in fact Mr. Bromley never was a candidate the office of auditor. The first, I believe, which he heard of it, was the information he received from me, that I was anxious he should accept that office; and, therefore, I have no doubt unintentionally, that answer does not seem to me to convey a correct impression of the facts. All that remains, I believe, is to mention a few subsequent proceedings (which are very few), after Mr. Bertolacci's appointment. It happened, I think, not many weeks after his appointment, that I resigned my own office; and though I held it for a few weeks afterwards, of course I need not tell the Committee that during that time I merely performed the ordinary routine duties of the office, and I did not think it proper to make any arrangements respecting either the office of auditor, or any other office, after I had actually tendered my resignation. But before that time, I think, the first question that occurred was a difficulty as to the attendance of Mr. Bertolacci. I believe I omitted to mention that before his appointment I saw Mr. Monsell, who was at that time at the Board of Ordnance, on the subject. He consented that Mr. Bertolacci should accept the office, and I gathered, from what Mr. Monsell said, that though he would ordinarily be expected to continue his attendance during the ordinary hours at the Ordnance Office, still there would be a disposition to show him some indulgence, at all events in the first instance, when the business of his office at the duchy was likely to be more heavy than afterwards. Subsequently, however, probably in consequence of a pressure of business at the Ordnance, I found greater difficulty in obtaining Mr. Bertolacci's attendance at any time, except out of office hours. I do not mean to say that there was the slightest breach of faith, or the slightest misrepresentation made by Mr. Monsell, but certainly the attendance which Mr. Bertolacci was permitted to give was, in the first instance, less than I had apprehended. I had thought that some indulgence would have been shown him during office hours.

1227. Viscount *Goderich*.] What was the date of your interview with Mr. Monsell?—I am sure I cannot say accurately; for, being both in the House at that time, I believe our interviews were all conversations in the House of Commons, and therefore I am not able to state the date; but it must have been somewhere about the time of the appointment of Mr. Bertolacci; it was when his appoint-

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ment was in contemplation, and I see that the minute of his appointment was the 15th of May.

1228. *Chairman.*] The Committee understand that the first communication with regard to leave of absence with Mr. Monsell, was before the appointment of Mr. Bertolacci?—Yes, when it was in contemplation.

1229. And some little time afterwards, less leave was obtained from his duty at the Ordnance Office than you had anticipated?—Yes, it might have been an erroneous impression upon my mind; there was no promise whatever from Mr. Monsell; but, certainly the indulgence shown him was rather less than I apprehended it would have been from my conversations with Mr. Monsell. However, under these circumstances, Mr. Bertolacci being only able to attend at four o'clock, after office hours, an arrangement was made with Mr. Gooch, the first clerk at the duchy office, for which I felt much indebted to him, by which he most cheerfully and readily consented to attend at extra hours for the purpose of giving Mr. Bertolacci the assistance he desired, and I had hoped that this difficulty had been got over by that means.

1230. Viscount *Goderich.*] Did you state to Mr. Bertolacci, at the first interview you had with him, the result of your conversation with Mr. Monsell?—I think it is very likely I may have stated that. I do not distinctly recollect it, but I think it extremely likely I may have stated that I had seen Mr. Monsell upon the subject, and he did not object to his accepting the office, and I trusted that as his labours were not very severe, the means would be found of their being performed. Then another question which arose, I think almost the only one at that time, was with respect to the authority for contingent payments in the duchy. Mr. Bertolacci called my attention to the fact that accounts had been laid before him, as auditor, which accounts had never received the sanction of the Chancellor by any order being made upon the subject. According to my understanding of the duties of the auditor it was his business in each case, not only to see that there was a proper receipt or voucher for each payment, but that the previous order had been given for it by the Chancellor or council. Now it appeared that a practice had prevailed in the duchy with respect to some very small payments of trifling amount, which it was found necessary to pay at once, without having obtained the previous sanction of the Chancellor; that they were laid before the auditor without ever having been submitted to the Chancellor, and it had been the practice of former auditors to pass those payments; they were very trivial sums, but such had been the practice. It seemed to me that, in this particular, Mr. Bertolacci was right, and that although the matters were trivial, still it was better to adhere uniformly to the rule, that in every case there should be an authority given by the Chancellor; and, therefore, I passed a minute to this effect: that in all cases where previous authority could be obtained it should be done, but where there were small payments and previous authority had not been given, at all events the sanction of the Chancellor should be obtained before they were submitted to the auditor. The only other matter which I recollect having been mentioned to me (and I have only gathered that from the evidence), is a letter which I see from Mr. Bertolacci to myself respecting the bills for the sale of the property of the duchy; that letter, I believe, I must have received just at the time that I had tendered my resignation; in consequence of which, I believe, I placed the letter in the hands of Mr. Danvers, to communicate with Mr. Bertolacci upon the subject, but of course that was a matter which I left to my successor, as I have already said that I did not think it right to make any arrangements respecting the new office after I had myself tendered my resignation.

1230*. *Chairman.*] Will you turn to Question 75?—Question No. 75 is this: "When you were appointed auditor, did not Lord Belper, who was then Chancellor of the duchy, say to you, that he wished you to see whether any portion of the large amounts of rent then in arrear, and which had been yearly brought forward in the receiver-general's accounts, could not be struck out as being irrecoverable?" Mr. Bertolacci's answer is, "His Lordship expressed that wish to me." That is certainly quite correct; I did call both Mr. Bromley's attention, and subsequently that of Mr. Bertolacci, to the question of those arrears. There were, in the duchy, a number of very small payments, chief rents and others, some of which appeared in former times to have been neglected, and had been altogether unpaid; so that not only, I believe, would they now be, in consequence of that neglect, legally irrecoverable, but in many cases the

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the persons or property from which they were payable, as I believe, were not known. Now it certainly appeared to me a pity that these rents should be carried on from time to time swelling the arrears if they were absolutely irrecoverable, and therefore one of the objects to which I wished to call the attention of the newly-appointed auditor was, in what way these payments should be dealt with; the object being to deal with them in such a manner, that on the one hand they should not continue to swell both sides of the annual account unnecessarily, and yet that none should be put entirely out of view, which might by any possibility be hereafter recoverable. There is only one other subject to which I should be glad to call the attention of the Committee, and that is the introductory paragraph in Mr. Bertolacci's petition. I see that a statement is made there which is put at the head of the petition, and which is thought of sufficient importance by the petitioner to be particularly dwelt upon, and to be a subject of explanation in his evidence; and, as the former part of that paragraph appears to apply to myself, I am anxious to give the Committee some little explanation upon the subject. He states, "That without the sanction of Parliament changes and deprivations (as hereinafter stated) were illegally and unconstitutionally made by the then Chancellor of the duchy" (that is myself) "of the rights and power of the auditor, by which his functions were curtailed and rendered ineffective, at a time when a Minute had been made by the Chancellor, postponing the payment of arrears of rent due by Earl Granville to the duchy." It is only that part of the paragraph which relates to myself. Now, I have endeavoured to understand what this paragraph can mean; and, so far as I can put an interpretation upon it, it seems to me that it must mean this: that I had been guilty of some unusual and improper conduct in sanctioning the postponment of rent due by Lord Granville, and that, having been conscious of some misconduct of this kind, I had excluded the auditor from a seat in the council, with the view of shielding myself against any charge which might be made against me on that account. If this paragraph does not bear that interpretation, I am certainly unable to put any other upon it. I am therefore anxious to state the facts very shortly to the Committee, with respect to Lord Granville's arrears of rents. I will not go at large into that question, but I will only state this much: that Lord Granville being a tenant for extensive collieries and iron works under the duchy, and having expended extremely large sums upon that property, to the very great benefit of the duchy, and to the great increase of the rents, it being a perfectly different case from that of any other tenant, it had been thought right for some years before I held the office of Chancellor, to allow a greater arrear with respect to his rents than had been allowed in other cases. I found that that was the case when I entered upon my office, and no change, so far as I am aware, took place in that respect whilst I was Chancellor. I have also to explain that, whether the conduct of the authorities of the duchy with respect to these arrears was right or wrong, it was not the personal act of the Chancellor, but, in all cases, of the council; the council had managed these matters of arrear before I entered upon my office, and I, like my predecessors, took their advice in every action with respect to it after I was appointed to the office. I also may call the attention of the Committee to the last minute upon this subject which had been made before Mr. Bertolacci's appointment, and to which, therefore, I should suppose he must more particularly allude. Now the order, I find, was to this effect: "It is ordered that a communication be made to Mr. Loftus Lowndes (Earl of Granville's auditor), stating that the court must require the immediate payment of the arrear of 1,000*l.* due in respect of the year 1852, adding, however that they are willing to allow one-half of the arrears of 1853 to stand over to the 1st of May next, when they will expect such half to be punctually paid, the remaining half to be paid so soon as may suit his (Mr. Lowndes's) convenience, but at all events before the 29th of September next, when another year's rent will have accrued." That is dated the 16th of March 1854; it was the last meeting of the council before Mr. Bertolacci's appointment. I was Chancellor at that time, and I see from the minutes that the council was attended by the Earl of Hardwicke, the Right Honourable Sir James Graham, and Colonel the Honourable C. B. Phipps; therefore it appears to me that so far from that being a sanction of the arrears it was rather calling upon Lord Granville's agent to pay up those arrears. I have therefore only to say, in answer to the paragraph in the petition, that in the first place, no change had taken place when I became Chancellor as to these arrears; secondly, that the

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proceedings with respect to those arrears were not the personal act of the Chancellor but that in all cases he was advised by the council of the duchy in these matters; and lastly, that the last minute, which I suppose is more particularly referred to, is rather calling upon the agents of Lord Granville to pay up those arrears than giving any additional sanction to their postponement; and I can only say that till I read this paragraph it certainly had never entered my mind to suppose that any possible connexion could be traced between the postponement of Lord Granville's arrears of rents and the question whether or not Mr. Bertolacci should have a place on the council.

1231. Mr. *Coningham.*] Was there not a previous minute?—Yes, many. I merely take that as being the one immediately before; every year there have been minutes respecting the rents and the arrangements with Lord Granville.

1232. *Chairman.*] Do you wish the Committee clearly to understand that in selecting Mr. Bertolacci for the vacant office of auditor, you selected him on account of the character which you had obtained of him as a person fit to perform the duties of the office, and not as a reward for public services which he may have discharged before?—His appointment was solely and entirely from my belief, from the character which I had received of him from the Chancellor of the Exchequer and others, that he was a fit person for performing the duties of the office, and it had no regard whatever to any former services or any other consideration.

1233. When you went to the Chancellor of the Exchequer for the purpose of inquiring for a fit person to be appointed to the office of auditor, is it in your Lordship's recollection whether, when the name of Mr. Bertolacci was first mentioned, it was accompanied, as an additional recommendation, with any account of his having rendered great public services in Ireland?—The first time I heard Mr. Bertolacci's name mentioned, was not in conversation with the Chancellor of the Exchequer, but in the note which I read to the Committee; when I afterwards saw the Chancellor of the Exchequer upon the subject, either he or Sir Charles Trevelyan, and probably both, mentioned to me the services Mr. Bertolacci had rendered in Ireland, and I considered the account given to me of those services so far important as to raise my opinion of Mr. Bertolacci's character for industry and knowledge of accounts, and it is very possible, though I cannot bear it in my memory, that the Chancellor of the Exchequer may have said he was glad that Mr. Bertolacci should be appointed. Of course, as I said before, I must guard myself carefully, as, knowing nothing of what passed between the Chancellor of the Exchequer and Mr. Bertolacci, I can only speak of what passed between myself and Mr. Bertolacci, and the objects and motives by which I was myself influenced.

1234. Viscount *Goderich.*] It is stated in the 11th paragraph of the petition, that you made a statement in the House of Commons, on the 15th of December 1854, from which the petitioner draws the conclusion that he was appointed in consequence of his public services, and there is appended to the petition a document which contains a statement made by you in the House of Commons. Do you consider that that speech bears out the statement in the petition?—I have not read that speech over within the last few days, but I am not aware that there is anything in that speech which will bear out the statement. Certainly what I intended to state, and I believe what I did state, was that the grounds upon which I had appointed Mr. Bertolacci were from the belief that he was a fit person to execute ably and faithfully the duties of the office.

1235. Mr. *Coningham.*] The impression you received from your conversation with the Chancellor of the Exchequer, was that the appointment was given to Mr. Bertolacci in consequence of his public services?—No, certainly not. I went to the Chancellor of the Exchequer to request him to find me some fit person. He told me he had found such a fit person in Mr. Bertolacci; and the whole of that conversation, as far as I recollect it, was simply to this purpose, to show that Mr. Bertolacci was a fit person for the office; but at the same time I have said this much, that it is very possible that the Chancellor of the Exchequer may have said (I do not know whether he did or not) that he was glad to obtain the appointment for Mr. Bertolacci, but that I really cannot speak to.

1236. Lord *Harry Vane.*] Did you consult Mr. John Abel Smith on the subject?—Yes; I spoke to Mr. John Abel Smith on the subject, and I think also Sir John Lefevre. I do not mean at length, but generally, as to his character,

character, and I found that they could confirm the character I had received from the Chancellor of the Exchequer upon the subject.

1237. *Chairman.*] Your opinion of the amount of duty to be performed by the auditor, under the new decision to which you came previous to the appointment of Mr. Bertolacci was such, that you thought it a duty that could be performed by a gentleman who at the same time held a clerkship in another public department?—Certainly, I had come to that conclusion, as well from what I had heard of the duties there as from knowing that similar duties had been performed with perfect satisfaction in the Duchy of Cornwall, and I was also confirmed in my opinion by Mr. Bromley, who had the books laid before him, and being a person very conversant with such matters, must have had an opportunity of judging what the duties were.

1238. Does your Lordship recollect whether, in defining the duty of the auditor under the new arrangement, you contemplated that the auditor should have the means of ascertaining whether the valuation set upon any property parted with from the duchy was a sufficient sum?—I should certainly not conceive that to be a part of the duty of the auditor. I should conceive that that is a matter upon which the Chancellor and council would consult with their surveyor general, and having made up their minds upon the subject, after consulting with their surveyor-general, or any parties whom they might think proper, they would come to their own resolution upon the subject, and it would be the duty of the auditor to carry out their orders upon that point. No doubt, if he had reason to suppose that any mistake was committed in that or any other matter, he would call their attention to it, but I do not conceive it to be a part of his duty to judge of a valuation.

1239. Was it your opinion that the duties to be performed by the auditor, under the new arrangement, could be satisfactorily performed by him without his being present at the council when any resolution was taken?—Certainly; I can see no object for which he should be a member of the council; it might be desirable that on particular occasions he should have access to the council, if anything arose with respect to his duties which he wished to lay before the council, and I had made arrangements for that purpose.

1240. If the auditor appointed under that new arrangement should decline to audit, or should postpone the auditing of the accounts, on the ground that he had no means of testing the accuracy and sufficiency of the valuation of any property of the duchy that might be sold, should you think that, in doing so, he kept within the line of his duty, or went beyond it?—I should say he went beyond it, as far as I can form an opinion upon the subject; the valuation of property was a matter not belonging to the auditor. I should wish to say, that I think it right that the auditor should have access to those minutes of the council which are connected with his duties, but I do not conceive that the valuation of the property is one of his duties.

1241. The mode in which property is parted with in the Duchy of Lancaster, I believe, is by what is called a bill, receiving the sanction of the Chancellor, and passing?—I believe so.

1242. To that bill the signature of the auditor is attached, in two places?—I have heard so.

1243. Is your Lordship of opinion, that under the new arrangement, as determined upon by you before you appointed Mr. Bertolacci, the signature of the auditor in those two places to the bill implied no more than that he had had under his examination the valuation of the surveyor-general and the minute of council which accepted that valuation?—As far as I am able to form any opinion upon the subject, I am inclined to think so; but I should state that my attention was never called to this point; it was a point specially raised after I ceased to be Chancellor, and I believe that the attention of my successors was specially called to that subject; but I do not think my opinion could be of any great value, one way or the other, because the question was not raised when I was Chancellor; I have heard the matter discussed since.

1244. Viscount *Goderich.*] Are the Committee distinctly to understand that at your first interview with Mr. Bertolacci, when you offered him this appointment, you explained to him that he was not to be a member of the council of the duchy, and that he accepted that office on the understanding that that was your intention?—Certainly; that was one of the objects of my interview, and finding that Mr. Bertolacci seemed to express himself with some dissatisfac-

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tion at not being a member of the council, I recollect that I did distinctly state to him that it was only on that condition that I could make him the offer of the appointment, and that that condition must be recorded in the minute of his appointment. And I further recollect, a short time after I ceased to be Chancellor, when Mr. Bertolacci spoke to me in the Lobby of the House of Commons, complaining amongst other matters of his not being a member of the council, I then at that time recalled the conversation which had taken place, and told him that it was impossible he could feel aggrieved upon that point, inasmuch as the office had been offered to and accepted by him only on those special conditions.

1245. Mr. *Coningham.*] Did the conversation refer to the refusal of the clerk of the council to give Mr. Bertolacci free access to the minutes on the ground that he was not a member of the council?—I think very likely it did; but I think what was then in course of conversation was, that Mr. Bertolacci referred to his complaint of not being a member of the council; and then I said to him, "You must be perfectly aware that you cannot make any complaint upon that subject, because at the time you were offered the appointment I specially called your attention to it, and you only accepted the office upon that understanding."

1246. Mr. Bertolacci, if I understand rightly, was not aware at the time of his appointment what the powers and privileges of his office were, and do you think that it was competent for the auditor, even had he been aware of the constitutional position of his office, to divest it of any of its powers or privileges?—No doubt, if the office was to be deprived of privileges which were necessary for the due performance of his duties as auditor, it would then be perfectly right that Mr. Bertolacci should remonstrate against the office being so deprived. But, in the first place, I hold that by virtue of his office he never had authority to sit upon the council; and in the next place, I hold that the sitting upon the council was in no respect necessary for the due performance of the duties of his office. I, perhaps, might read the minute of Mr. Bertolacci's appointment, which will make it clearer: "Mr. Francis Robert Bertolacci being this day appointed auditor of the duchy, during Her Majesty's pleasure, in the room and place of Mr. Lockhart, resigned, at a salary of 200 *l.* per annum, is this day sworn in, the oath of office of auditor entered in the Little Cowcher Book being administered to him in the presence of the Chancellor, Mr. F. R. Bertolacci having been informed that he will not be required to attend the meetings of the duchy council, unless specially summoned thereunto on business connected with the said office." Now, I might just explain to the Committee that my reason for putting the latter part of the minute in this form was that, in the first place, I thought it would be the form which would be the least offensive to Mr. Bertolacci, that he would not be required to attend unless summoned; and in the next place, I thought it just possible a question might be raised whether or not the auditor might be considered as *ex-officio* a member of the council. It was perfectly clear, however this may be, that it was at the Chancellor's discretion to summon or omit to summon, whomsoever the officers might be, to the council; and therefore I thought the best way was to raise no question of that kind, but simply to state in the minute that he would not be required to attend the meetings of the council.

1247. Have you any objection to tell the Committee whether it was by your own desire, or at whose suggestion it was, that you proposed to exclude the auditor from the council of the duchy?—It is difficult to recollect how the matter exactly, in the first instance, arose. If I recollect right, when I was considering the new constitution of the office, I made some inquiries respecting a similar change which had taken place in the Duchy of Cornwall, and I found, amongst other things, that the gentleman who performed the duties of auditor there was not a member of the council; and my attention, therefore, was necessarily called to that subject, by finding it had been done there. I think that was the mode in which it first suggested itself to me; but I am not certain.

1248. Did your Lordship suppose that by removing the auditor from the council, you were affording him any additional power of check, or placing him in a position of less power?—I did not conceive I was doing either one or the other with respect to the duties of his office of auditor, seeing he had ample power to perform his duties of auditor without being a member of the council; and his being a member of the council would not have increased or diminished his power in that respect.

1249. Prior to Mr. Bertolacci's appointment, Mr. James was not admitted as a member

a member of the council, was he?—Mr. James was a member of the council from the time of his appointment as vice-chancellor, which was immediately after my own.

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1250. The law officers whom we have examined have given us to understand that the Chancellor has the power of acting quite independently of his council; if I understand your Lordship, you rather repudiated the sole responsibility of the transactions in connexion with the arrears of Lord Granville, as being the act of the Chancellor and the council?—I repudiated nothing; I perfectly agreed with the law officers; I always understood that; and I believe that the law officers have stated that the sole power rests with the Chancellor, and that he has the power, if he so thinks fit, of deciding any of these questions without taking the advice of the council; but by an almost invariable usage, and one which I think it is very desirable to maintain, it has been customary in all cases of important grants and donations out of the Queen's revenues of the duchy, or of granting important leases, or of any great question for the improvement of the landed property of the duchy, for the Chancellor to reserve such questions for a meeting of the council to hold such meetings from time to time, and then to bring all those questions before the council; and it has also been his custom to be guided by the opinion of the council. That I think most proper and most desirable. But at the same time, I believe that the sole and entire authority rests exclusively with the Chancellor, and that legally it would be in his power either to adopt, or not to adopt, the advice so given to him by the council.

1251. Viscount *Goderich*.] I suppose your Lordship must have done many acts sitting in council alone?—Two or three times a week; there was always business to be done. Supposing they were matters of small importance, such matters as I found had been usually decided by my predecessors sitting alone, those I at once decided; and it would be exceedingly inconvenient if the ordinary current of business were delayed till a council was held, which takes place only four or five times a year; but all the important business to which I have referred I invariably reserved for the advice of the council.

1252. Still those acts were held to be the acts of the Chancellor and council?—Undoubtedly; there is no question about that.

1253. Mr. *Coningham*.] I am informed that Mr. Anderson does sit at the councils of the Duchy of Cornwall?—I think you are misinformed; certainly your information is different from that which I received at that time, if it is so; but I only speak to what I was told at that time.

1254. I think I understood your Lordship to say that, during the time you were Chancellor, no question arose with regard to the signing of the leases. Now here is a communication to Mr. Bertolacci, dated the 9th of June 1854, in which reference is made to this subject?—I think I have already stated that I believe I received this letter either at the time or very shortly after I tendered my resignation as Chancellor; but I held the office of Chancellor for a week or two afterwards, I believe. But it is never usual, when a person holds an office after having tendered his resignation, to do no more than the ordinary routine business of the office, and therefore I conceived that it was not my duty to take any steps for regulating the duties of the auditor under those circumstances. The course, therefore, which I took was to place that letter in the hands of Mr. Danvers, desiring him to communicate with Mr. Bertolacci, the auditor, upon the subject; and whenever a new Chancellor was appointed, it would then be for that gentleman to decide the question.

The Right Honourable Earl *Granville*, K.G., attending by Permission of the House of Lords; Examined.

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1255. *Chairman*.] YOU succeeded Lord Belper as Chancellor of the Duchy of Lancaster in the year 1854?—I did. It will perhaps save the time of the Committee, if I make a statement on each of the principal points alleged against me; the Committee will then be able to question me on each head, and on any further points which may require explanation. The fact of my having, as a tenant of the duchy, been in arrears, has been represented as influencing my communications with the auditor. Now, there is no doubt that for the last eight years I have been in arrear, and I am at this moment in arrear about a half of the rent of last year. The only exception that I am aware of was during the year 1845, at which period the arrears were cleared off for a particular purpose.

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I will show hereafter that I had never any official cognisance of the reasons which induced various Chancellors to allow of those arrears; so that all I can do now is to state why, as a tenant, I applied for and obtained those facilities, and why I think that that is not a discreditable circumstance to myself. I am afraid that in doing so I must go into rather a long personal story, which may be wearisome to the Committee, but which I think necessary to my case. My father was lessee of the duchy for a great many years of his life, and during the principal portion of that time he derived a considerable income from the property which he held under the duchy; but during the last ten years of his life he derived no profit whatever from it; on the contrary, it was a losing concern, into which he poured money from year to year. When I succeeded, the same thing happened to me, I instituted various inquiries, and it came to that point that it was either necessary for me to throw up the whole thing (which, although I might have had legal difficulties in effecting, would have placed the duchy in embarrassing circumstances) or to go to a very considerable outlay, though not to the extent to which I afterwards went. During the course of that eight years I expended about 150,000*l.* in those mines. I have renewed the colliery and introduced all the modern improvements; in the principal pit I have increased the production about 11 times. I have sunk another pit which is, I believe, the second deepest in the kingdom. I have increased the make of pig-iron from 150 to 1,000 tons a week. I have, by a personal guarantee, induced the North Staffordshire Railway to bring a branch from their railway into the works; I have constructed a railway of an expensive character, with embankments, connecting the whole of the works together; I have established a bar-iron company, for the manufacture of pigs into bars and plates, and rails, which company is bound to take by its contract all its iron and coal from the works; it takes now about 600 tons of iron a week, and a corresponding proportion of coal. I have built about 150 first-class cottages, and some very large schools; and in various ways I have developed the property. Perhaps the most satisfactory proof to the Committee of what I have done, as the proof of the pudding is in the eating, will be to state, that in the first two years of that period, my rent to the duchy was one year 1,900*l.*, and the other 1,500*l.*; the last year's rent was 5,600*l.*, perhaps that will appear to the Committee a more plausible reason for the increase of the net receipts of Her Majesty, than the supposition that they were so suddenly increased by the determination on the part of the auditor to search and examine the accounts. A great portion of this money was borrowed and during part of that time I was under considerable pecuniary pressure; indeed the great outlays were only finished last year, and the full development of the works, will hardly be completed till some six months hence; I am happy to say that the concern is now a profitable one; but the profits will for some time to come, without diminution, go to the paying off of the debt incurred in previous years, and which has developed the property of the duchy to so great a degree; under those circumstances, it never struck me as in the slightest degree discreditable to obtain the facility from the duchy of allowing me, on an average, something like a year or 15 months' in paying the whole rent. I may perhaps mention to the Committee that I happened accidentally, the other day, to meet Mr. Nicholas Wood, who is the greatest authority in the country upon these matters, in the presence of Mr. Robert Stephenson, the civil engineer, and Member of Parliament. I put my case hypothetically to them, afterwards stating that it was my own case, and I asked Mr. Nicholas Wood whether he thought there was anything extraordinary in the proceedings. Mr. Nicholas Wood told me, and Mr. Robert Stephenson entirely acquiesced in the statement, that so far from being extraordinary, it had been in the north of England his universal practice to recommend landlords, in case of a tenant being willing to make expenditure upon such a scale as mine, not to postpone the payment for a year or 15 months, or any longer period, but to suspend the rent altogether, or make the tenant pay only a nominal rent for three or five years. I state this to show that as far as I was concerned as a tenant, I cannot reproach myself, or think that I committed a discreditable act, in enjoying the facility granted to me by successive Chancellors of different politics during the time that this large outlay was taking place. With regard to my having anything to do with the official sanction of the proceeding, I may perhaps mention that my own appointment took me rather by surprise. The Earl of Aberdeen sent for me from the country, and stated that arrangements connected with the Cabinet made it desirable that I should

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should resign the office of President of the Council, which I then held, and take that of the Chancellor of the Duchy of Lancaster; and he expressed some anticipation of objections on my part in consequence of the one office being supposed to be inferior in dignity to the other. I said that I thought that the arrangement which he had in view as regarded Lord John Russell was a most desirable one; that there was absolutely no sacrifice upon my part, but if there was a sacrifice for obvious reasons I should be ready to make it; I added, however, that I saw one practical difficulty, which was, that being a tenant of the Duchy of Lancaster, and having business in hand at that moment which could not be properly postponed, there might be some difficulty in accepting the office; but I suggested at the moment that as there was a council composed of some of the most eminent persons in the country, I thought that difficulty might be entirely obviated by my agreeing to have nothing to do with any business directly or indirectly connected with myself. A minute, drawn up to that effect, was my first act as Chancellor. That minute was most conscientiously acted upon, and I knew rather less of what was going on respecting my own affairs in the office then than at any other time. I think that is the principal point connected with the arrears. If any of the Committee have any questions to put to me upon that point I shall be happy to answer them.

1256. Does your Lordship recollect a pro-Chancellor being appointed at any time during the period that you held the office of Chancellor?—Yes, if I recollect rightly at the first council which was held after I had retired when my private affairs were to be considered, instead of coming to a decision upon those affairs, it was thought that there was no legal power without an appointment from the Queen for some person to act for me; and an application was therefore made to Her Majesty to give that power, and it was given to the vice-chancellor for the time being.

1257. Is it in your Lordship's recollection, that so long as you remained Chancellor, whenever any business had to be transacted with which your private interests were concerned, invariably the consideration of such business was conducted by the other members of the council, without the presence or the interference of your Lordship?—Invariably.

1258. Mr. *Coningham.*] Did the difficulties which you felt in acting as Chancellor arise from the fact of your being in arrear to the duchy, or simply from the fact of your being a tenant of the duchy?—Before answering that question, which I am most ready to do, it may be desirable that I should state to the Committee facts which are known to them, but which, for certain reasons which I will explain, it is desirable should appear upon the evidence. I have had an opportunity of seeing a newspaper which has exercised its undoubted right of animadverting upon my conduct, as described in the evidence of Mr. Bertolacci, and, in one case, that newspaper alluded not only to the evidence given, but to the evidence to come, which gave a sort of character to it, as if speaking for Mr. Bertolacci, and in that paper I remarked an assertion that my friends on the Committee were attempting to prove something or other. I do not remember exactly the allegation, but that my friends on the Committee were endeavouring to take a certain course. Now, I think it should appear upon the Minutes of the Evidence, that I am not aware that any gentlemen on this Committee have the slightest knowledge of my case, excepting so far as they have derived a knowledge of it from the evidence which has been given before them. Of course the Committee will contradict me, if that is not the case. On the other hand, some of my friends have thought it not altogether fair, that a gentleman like Mr. Coningham, representing Mr. Bertolacci as counsel, should be here to examine and cross-examine myself, or any other persons, against whom charges are made, without any corresponding person being here on my behalf; and I think it is well that it should appear on the evidence, that it is with the entire concurrence and sanction of the Duke of Newcastle, the Earl of Harrowby, and myself that such has been the case. Mr. Baines informed me that the Chairman of the Committee thought that this was a complicated case, which the Committee would find it desirable to have some assistance to unravel, and they wished to have the assistance of Mr. Coningham as acting on behalf of Mr. Bertolacci, and they would be glad also to have somebody on our side to act for us. The answer which we begged Mr. Baines to give was that we had not the slightest objection to any person appearing in the Committee in that capacity for Mr. Bertolacci, but that we had no wish for anybody to act for ourselves, that we should give our statements and rest upon them.

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1259-60. *Chairman.*] Have you any other point which you wish to bring before the notice of the Committee?—There is another point connected with the arrears, which is that as the arrears appeared in the accounts which were in Mr. Bertolacci's hands (and I believe, but I am not quite sure, that they were my longest arrears in point of time) I never could understand in what way any subsequent action of mine could prevent Mr. Bertolacci exposing any improper conduct of that description on my part. Perhaps I may add one other point. Seeing Mr. Wise in this room, I take the opportunity of stating, as it bears also upon the question of the expense incurred, which has been an advantage to the duchy, that Mr. Wise is reported in the papers as having made a statement the other day in the House of Commons of the great devastation caused by me, as a lessee of the North Staffordshire collieries. Mr. Wise could not make himself personally acquainted with these facts, but must have derived his knowledge from some third person, who certainly gave him a most exaggerated and imaginative description of what took place some years ago; but during the last eight years I have been at great expense in preventing destruction to the property above-ground, and have succeeded, with two exceptions; once in consequence of a "fault," and another time in consequence of workings which we believe had taken place previously. The result has been to diminish the chances of litigation to the duchy.

1261. Viscount *Goderich.*] It is stated in paragraph 66 of the petition, that the petitioner had been informed that the account for the year, from the 30th of September 1851 to the 29th of September 1852, had not been declared until the month of May 1854, for the purpose of giving an opportunity to Earl Granville to pay the arrears of rent due by his Lordship to the duchy. Do you believe that to be a correct statement of the fact?—I am perfectly unable to say, because I know nothing of the facts whatever; no such fact came to my knowledge.

1262. Would it have been any advantage to your Lordship that the account should have been kept back in that manner?—Not in the least.

1263. There was nothing in your conduct which you wished to conceal, or attempted to use your power as Chancellor for the purpose of concealing?—No; for some time I was under the belief that my arrears by name appeared in the Parliamentary accounts. Upon inquiry lately, I find that that was not the case; but I had been under the belief that it was so.

1264. *Chairman.*] Did your Lordship ever give orders that the accounts should be suspended or delayed, in order that you might prevent your own arrears from appearing on that account?—Certainly not.

1265. Mr. *Coningham.*] From the steps which you found it necessary to take upon the fact of your being a tenant of the duchy, did you perceive the inconvenience of your position as Chancellor and tenant, at the same time, of the Duchy of Lancaster?—I have stated to the Committee that I thought there would have been a difficulty in accepting the office, unless some such arrangement as that which I have described could be concluded.

1266. *Chairman.*] Leaving the question of arrears, is there any other point upon which your Lordship wishes to give information to the Committee?—I see that some objection is made to the appointment of Lord Belper as a member of the council, as not being a legal act. With regard to Lord Belper's appointment as a member of the council, in consequence of Her Majesty personally expressing to me her sense of the great utility of Mr. Strutt at the duchy, I took upon myself to take Her Majesty's pleasure whether he should be appointed a member of the council; as to the legality of it, I own I never made any inquiry at all, it being exactly under similar circumstances to those under which the present Lord Chief Justice of the Queen's Bench had appointed several members of the council; I therefore thought myself free from any risk in that respect. When Lord Belper resigned the seals to me, he gave me very full explanations of the state of circumstances, and he also told me what he had done with regard to the appointment of Mr. Bertolacci, the objects that he had in getting a good accountant instead of a gentleman of great merit in another department; also the arrangements for economising the salary; and the fact that he had not appointed him as a member of the council. I am not quite sure whether I ought to add that, in talking of the high qualifications which have been mentioned of Mr. Bertolacci, Lord Belper added, that although he had not facts to go upon, his impression was that the appointment would not turn out so good a one as he had a right to anticipate.

1267. Does your Lordship recollect the interviews and the correspondence which

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which passed between Mr. Bertolacci and yourself, with regard to his claim to have greater access to the minutes of the council?—I remember some letters, and also several very long conversations indeed, at different times with Mr. Bertolacci, and I feel that I labour under some disadvantage in this respect. I have alway treated all the civil servants of offices with which I have been connected with perfect confidence, and it never struck me as a possible thing to keep the exact dates or notes of conversations when they took place, and there is a minuteness of detail in the accounts given by Mr. Bertolacci of conversations which give an appearance of accuracy which I cannot admit. Even at the time, it struck me, in one conversation after another, that (I am quite sure unintentionally) Mr. Bertolacci seemed to recollect things, and draw inferences from what I had stated at previous conversations, of which I had no recollection whatever, and it is very difficult for me to go into these conversations at three years' distance. But there are places where the expressions, and the very words which I used, are given, which I cannot take upon myself to say I did not use, but the use of which I very much doubt; I think it a very extraordinary thing that I should have suggested to the auditor not to trouble himself with details. I think that if I had wished to express confidence in him, I should not have used such expressions as more than the fullest confidence; but from the circumstances which I have mentioned, I have great difficulty in going into detail, and showing, point by point, where I differ from Mr. Bertolacci in those respects. I am afraid also, that in giving evidence before the Committee about several matters of business, it will be very difficult to explain the detail of all that took place; matters of business came on. I was in the habit of considering the papers at my own house, and marking, for my own recollection, those passages which seemed important; with regard to precedent or usage, I generally consulted Mr. Danvers; with regard to matters of law, I summoned any of the law officers to assist me; and with regard to audit, those whom I thought qualified to give advice on that subject. I had some difficulty in those conversations with Mr. Bertolacci, and I failed (I dare say from my own want of understanding) in exactly arriving at the points which Mr. Bertolacci wished to make, but I think that there were two or three points of which I have a very clear recollection. One was the right which he claimed of sitting at the council. I have already stated that upon my first appointment, Mr. Strutt had explained to me his reasons for not giving that gentleman a seat at the council, and those reasons appeared to me good; but when Mr. Bertolacci made that representation to me, I consulted with Mr. Strutt in private, as to whether he saw any reason for changing his opinion, and I called upon Colonel Phipps, who, as privy purse, represented the personal interest of the Sovereign in this matter, and I found that they entirely agreed with me, that it was not desirable. Before I gave an official reply to Mr. Bertolacci, I brought the subject before the whole council, including the best legal advice that I could get, and there appeared to be no doubt upon their minds that it was legal, and we all agreed, that as a matter of principle, it was inexpedient that he should be a member of the council. I was anxious to attend to any suggestions of Mr. Bertolacci, because, in any office, it is quite clear that both forms and usages exist which require correction from time to time. But a great many difficulties which Mr. Bertolacci made, seem to tend, I do not say intentionally, to prove that it was necessary for me to rescind the decision that had been taken by the previous Chancellor and by myself as to his not having a seat in the council.

1268. Does your Lordship remember the code of instructions for the duties of the auditor which you drew up, after having called upon Mr. Bertolacci to give you his views upon the subject?—In the course of one of those conversations, when I was getting a little puzzled, I asked Mr. Bertolacci to produce the instructions under which he acted. He told me that he had received no instructions whatever; and then I said, I think that is an omission which ought to be corrected. It constantly happens, in every office, that the person most competent to the particular department is, in the first instance, asked for draft instructions, upon which his own conduct is to be regulated; and it was clear, having an experienced accountant introduced for the first time into the office, that he was the most competent person to give a sketch of the instructions by which the duties of his office ought to be regulated. I asked Mr. Bertolacci to do so, and he consented. I wrote a letter to Mr. Bertolacci, pressing him for those instructions, and he subsequently declined preparing them. Upon that I went to the Treasury, to ask their advice, and to ask in whose hands I could

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could put myself with a view to framing those instructions, and the advice which I received there, which appeared to me judicious, was to go to the Audit Office. I went to the Audit Office; I wished to see the chairman, he happened to be absent, but I saw Mr. Macaulay, the secretary, who spoke to me upon the subject, and promised to communicate with Mr. Romilly. The result was, that there was a gentleman in that office who was not only a good accountant and auditor, but who had been employed in the construction of systems of account, and they recommended me to take his advice upon all those matters. His name was Mr. Hawker; he immediately came to the office; I desired Mr. Danvers to give him every information in his power, and he was the gentleman who drew up the instructions which were afterwards submitted for Mr. Bertolacci's observations. Mr. Bertolacci, if I remember right, made a great many observations upon those instructions, the result of which was, that after communications with my advisers upon the points, I approved of some alterations, but in the main the instructions were retained. And I can assure the Committee that I had no notion, in the act that I had taken, of limiting the powers of the auditor. My only notion was, defining the duties that he was called upon to perform. There was another point raised against me by Mr. Bertolacci, in his petition, which is my having, in concert with Sir Charles Trevelyan and Mr. Monsell, endeavoured to prevent his having those means of attending to his duty which were necessary. Now, I declare, in the most positive manner, that there was no concert whatever; Sir Charles Trevelyan has been more employed than any other officer in the establishment and revision of public offices, and therefore I went in this case to ask his advice. He stated that from what he knew of the circumstances, he believed that it was quite possible for a person engaged in another office, in his leisure hours, and taking advantage of his vacations, to get through the work of an auditor; but he thought it very doubtful whether Mr. Monsell would give any additional leave, from the language which Mr. Monsell held upon the appointment. I called upon Mr. Monsell, and I also walked with him, having met him in the street, and, so far from concerting anything with Mr. Monsell, I urged him very strongly to give further additional leave to Mr. Bertolacci, which he positively opposed upon these grounds: he said, "I was adverse to the arrangement in the first instance; I thought that it was not a good arrangement; it is inconvenient, a man being detached from one office to do part of the work of another office; I therefore could not depart from my resolution, even if the business of the office had remained the same; but the business of the War-office, at this moment, is double what it was, and I cannot consent to the arrangement." I own my impression was, that Mr. Monsell was a little unaccommodating in the matter, but I felt that he was so perfectly right in principle that I could not take any further steps upon the matter. Mr. Bertolacci seems to think that, as a cabinet minister, I had the power of ordering Mr. Monsell to do this; but the Committee must be aware that a cabinet minister, in his individual capacity, would have no authority to do anything of the sort. He might consult with his colleagues, and get an order made; but, of course, I did not do that when I thought that Mr. Monsell was perfectly right in point of principle.

1269. Mr. *Coningham.*] The leave which Mr. Bertolacci had, was in reality for other purposes connected with the public service; not leave in the ordinary acceptation of the term?—What I applied for was extraordinary leave of, I think, a whole month to be given for the purpose of enabling him to deal with the auditing of the duchy accounts. I suppose that it is hardly necessary for me to assure the Committee that I had no hand in inducing the "Times," or the "Civil Service Gazette," to insert an abusive article against Mr. Bertolacci. And perhaps I may be allowed to mention a subject upon which some evidence has been given, which I can make more complete. It is with regard to a charge against Lord Harrowby, that he introduced a Bill into Parliament which was totally unnecessary, for the purpose of defining more clearly that which was doubtful as to the power of the Chancellor. I may state that the history of the Bill was this: As soon as I got into the office, I looked at the accounts, and I certainly was very much struck on seeing that, independent of the expense of the office of the Duchy of Lancaster, something like 33 per cent. of the gross receipts was spent in management and collection of the revenues. I immediately instituted an inquiry; I had the surveyor-general up to town, and with Mr. Danvers, I inquired, and it appeared to me perfectly obvious that the

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the main reason of this great expense was that the duchy property is in scattered portions, not only in 13 counties, but in scattered portions of those counties. For an individual it would be a very expensive thing to manage; but for an office where reports are made, and various checks required the expense is enormous; I thought that the principle to act upon was to try to consolidate as much as possible, and sell and buy, so as to reduce the exorbitant expense of management. I found then that there were difficulties of a legal character, as to what amount of land the Chancellor could sell. I, myself, called at the Woods and Forests, on Mr. Charles Gore, the Commissioner, and requested him to give me information, and I found that the same difficulties had existed with regard to the Crown lands, and that those difficulties had been obviated by a Bill giving very ample powers. I then brought the matter before the council, the result of which was that an official correspondence took place, and it was resolved to introduce a Bill into Parliament of a similar character, which I have no doubt was the Bill which was introduced by Lord Harrowby.

1270. Viscount *Goderich.*] It has been stated in the evidence that your Lordship gave directions that the accounts to the 29th of September 1854 should not be handed over to Mr. Bertolacci, although they had been finally closed; will you state whether that is so, and what were your reasons for it, if it is so?—The fact is so; and as far as I recollect it was based upon this, that Mr. Bertolacci had had in his possession the accounts of the previous year for some months; that he had never made any request for the accounts for the subsequent year; that it did not appear clear what use the accounts of the subsequent year could be to him in auditing the previous year; and that it would cause great inconvenience in the office to have those accounts made up at the time. As far as my recollection goes that is the reason upon which I gave the order. As I stated before, I considered all these points very carefully at the time, but at a distance of three years I have not a perfectly accurate recollection of the reasons that induced me to take every step. I do not know whether it is quite becoming for a person who is here accused of misconduct to speak of another accused in the same way; but still I cannot help saying, with regard to Mr. Danvers, who is the principal person in the office, and who has been made the object of much of these charges, that having had a great many opportunities of experiencing the valuable qualities of the civil servants of the Crown, I certainly never met any man who appeared to me more straightforward, more accurate, and more courteous in his demeanor than Mr. Danvers.

1271. Mr. *Coningham.*] Did your Lordship desire the account for 1854 not to be rendered until the account for 1853 had been returned?—I really should answer that in the affirmative, more from having seen it stated in the evidence, and I think from Mr. Danvers having also acceded to it, than from any very distinct recollection of the fact myself. I have no reason to disbelieve that I did so.

1272. You referred to an article in a newspaper; may I ask your Lordship what newspaper you referred to?—I referred to the "Leader" weekly paper.

Thomas Flower Ellis, Esq., called in; and further Examined.

T. F. Ellis, Esq.

1273. *Chairman.*] DO you wish to make any additions to the evidence which you gave before the Committee the other day?—Yes; there are two or three additions which, it strikes me, are rather too large to introduce by merely correcting the print. If the Committee will turn to question 758, they will see that I was asked who were the council appointed by Lord Campbell. I see that I omitted to mention Sir James Graham; and also I spoke of Colonel Anson: it should be Mr. George Anson; and at question 762 there should be the same alteration, and Mr. Phipps should be Colonel Phipps; and I forgot to mention that Lord Belper had been appointed since. At question 767 I stated what I should do in case I found that I had accepted an office under a mistaken notion. I am not quite sure whether my answer implies—I did not mean it to do so—that I should continue holding on the office in breach of the condition upon which I had accepted it. I should never have thought of that. With regard to question 770, that no one has a right to attend at the council save only such persons as the Chancellor may choose to send for, from time to time, to sit there; that I apprehend to be the strict law; but the practice is, unless it is a case where

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some member is particularly wanted, that all the council are summoned together. That is the ordinary practice. The Chancellor, I suppose, if he wished to be advised merely upon some point of law, would summon myself or the vice-chancellor, or some other of the law officers. At question 793, I think I hardly expressed myself strongly enough in favour of Mr. Bertolacci's opinion. The Committee asked me what inference I drew from the language of Mr. Bertolacci's oath? I said, "This expression, 'other of the said council,' looks more like it." I should wish to put that stronger. I have no doubt at all that in fact the person who drew up that oath contemplated the person who took it being a member of the council, in the same sense in which the others were; and, when the change took place, that word "other," I think, might as well have been left out of the oath. I believe in my answer to question 799 there is an inaccuracy. I was speaking to the practice after Lord Granville Somerset's regulation. There has been some slight alteration since, which I did not notice. The Committee, I have no doubt, will have it much more fully from Mr. Danvers. The auditor does not sign both the body of the bill and the certificate, but only one. I forgot to make that correction. As to question 802, I see that I stated that Lord Portman and myself drew out a set of forms. That is not quite correct as it stands. A committee was appointed almost immediately after Lord Campbell's council had been instituted; I think it consisted of Lord Portman, the Earl of Hardwicke, Sir James Graham, and myself. Lord Portman took a very great interest in it. We did not actually draw out the forms; but we directed forms to be drawn out to produce a particular result. Our conveyancing counsel drew them out; and they passed through the hands of Lord Portman and myself, and, I think, somebody else. I think the questions 817 and 818 are not quite correctly taken down. Question 817 is this: "Did the clerk of the council sign the bills for the production of the auditor's particular?" I think it should be, "draw up the bills on the production"; and so at question 818. At question 820, I stated that nobody would hold that office after finding that he was required to sign a bill which had been ordered by the Chancellor to be signed through some fraud. I think I should have gone a little further, and said that I should have preferred resigning to signing it in the first instance. I could not constitutionally check it by simply refusing my signature; and, generally, throughout the office, the superior superintends the inferior, and not the inferior the superior. In the case of a draft of a presentation to a living I should never think of inquiring as to the doctrines or learning of the clergyman; but, if I found that there was simony, I should refuse to concur, and resign office; I could not retain the office and refuse to sign the draft. With reference to another answer of mine about the displacing of a person who holds at pleasure, by a subsequent appointment, I took a short note of Pepis's case, which I thought the Committee might like to see. It is reported in 1st Ventris, p. 342, and it occurred in the 31st of Charles the Second. It was a mandamus to restore Pepis to his place of recorder of the town of Cambridge. The return was, That the Corporation had power to choose a recorder *habendum pro termino vitæ, aut ad voluntatem eligentium.* That Pepis was chosen recorder *ad voluntatem eligentium*, and that afterwards, by the votes of the greater number, he was removed, and the Lord Allington constituted recorder under their common seal. Some objections were made to the return; but this is the material one for the present point: that a corporate aggregate cannot determine their will but under their common seal, and that the return did not show that they had done so under their common seal. The answer which the court gave was: "It does not appear that he was constituted under their common seal; perhaps, then, they must have determined their will under their common seal; but now 'tis well enough, my Lord Allington is constituted under their common seal, which act removes the other, so it was adjudged against Mr. Pepis." That is to say, you have here what you insist upon, a removal under the common seal.

His Grace the Duke of *Newcastle*, attending by Permission of the House of Lords; Examined.

His Grace the Duke of *Newcastle*.

1274. *Chairman.*] DOES your Grace hold office as a member of the Council of the Duchy of Lancaster?—Yes.

1275. Do you remember at what time you were appointed?—I do not remember the precise period, but I recollect that it was during the time that Lord Campbell

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bell was Chancellor of the Duchy, and I think that it was immediately after Lord Campbell's appointment.

1276. As a member of the council, do you attend every meeting of the council?—Not of late years; I attended most of the councils for a considerable time, but having taken office in December 1852, I found it necessary entirely to cease attending the councils, and I have not attended any council from that time up to the present moment.

1277. Does your Grace hold any land under the duchy?—Not now; the land which I formerly held under the duchy I have subsequently purchased.

1278. Can your Grace give the Committee any information with regard to the quantity of land which you so held, and which you so purchased?—Yes; the total quantity of land appears to have been 170 acres.

1279. Upon what kind of lease did you hold that property?—It was upon a lease of 31 years. The whole tenancy was peculiar, for it consisted of a great number of plots of land scattered in various parts throughout the county of Nottingham, and also of 73 chief rents and common fines.

1280. Viscount *Goderich*.] Did that lease come to your Grace by inheritance, or was it made to you?—It came to me by inheritance; it was a renewal to my father of a lease which had been held for a vast number of years by my family, and had been renewed from time to time, I believe always for a period of 31 years, upon a fixed rent and a fine upon renewal.

1281. *Chairman*.] In what part of the county of Nottingham is the largest of those plots situated; is it on the Sand?—The plots are situated in all parts; the largest, which is 66 acres, is in the parish of Elksley, which is in the forest portion of the county; and the second largest, which is 56 acres, is in the parish of Calverton, which is about the centre of the county.

1282. What was the sum paid for the purchase of this land?—The whole sum was 4,219 *l.* 6 *s.* 6 *d.*; that was for the remainder of the lease and the reversion.

1283. Were the whole of those plots held under the same lease, and consequently was there the same number of years still outstanding at the time that you purchased the property?—The whole were held under one lease.

1284. Is it within your recollection how many years were outstanding?—Yes, there were 18 years unexpired.

1285. Does your Grace know in what manner the value of 4,219 *l.* was arrived at?—Yes; I can state from the paper which I hold in my hand; and perhaps before I do so, I had better explain the circumstances connected with this property, which I have said were somewhat peculiar. I succeeded my father at the commencement of the year 1851, and upon looking into various matters connected with the property my attention was called to this lease, and to the peculiar circumstance that from its renewal so frequently, and containing, as I have mentioned, 73 chief rents and common fines, out of that number when I came to look into the circumstances of the property, 51 had been irretrievably lost, so that in fact I was paying the duchy the value of the whole of those chief rents and common fines, and receiving nothing in return, and I had no means whatever of recovering them, nor should I have been enabled to recover them for the duchy, or to give any explanation at the expiration of my lease. I found myself, of course, therefore, in a position in which neither the duchy nor the tenant ought to be. How far any consideration might have been shown at any attempt of a renewal of the lease at the expiration of those 18 years, I could not tell; but I thought that it would be a better transaction to clear the whole matter up by paying the value of these rents and fines at once, rather than having any arrangement with the duchy at the expiration of the lease; and that will explain how much worse a bargain it was as regards myself than appears upon the face of it. There were 18 years of this lease unexpired. The lease had been renewed to my father on the 29th of September 1840. The reserved rent in the lease was 134 *l.* 2 *s.* 3 *d.* He paid for this renewal a fine of 454 *l.* 4 *s.* 8 *d.*, and the expenses of the renewal and of the lease were 163 *l.* Consequently, in addition to the reserved rent of 134 *l.* 2 *s.* 3 *d.*, he paid for the renewal, 617 *l.* 4 *s.* 8 *d.* The rent which I found I was in receipt of on coming into the property was 166 *l.* 13 *s.* 8 *d.* The reserved rent which I paid to the duchy was 134 *l.* 2 *s.* 3 *d.*, leaving a balance of 32 *l.* 11 *s.* 5 *d.*, out of which of course had to be defrayed land-tax and rates, especially upon one of the parishes which was in very bad order, in consequence of the state of the mud cabins,

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cabins, the expenses of management, consideration for buildings, and other charges. Finding the property in the state which I have described, I thought that it was desirable, both for the duchy and for the tenant, that an end should be put to this lease, if possible; and I applied to know whether the duchy would be willing to sell. With regard to the petition of Mr. Bertolacci, which I have seen this day for the first time, it having been put into my hands just now, I should state that, in the only sentence which has reference to me, Mr. Bertolacci makes an entire mistake when he says that Lord Harrowby agreed to sell to me. Lord Harrowby had nothing in the world to do with it. I applied not to Lord Harrowby, but to Mr. Christopher, who was the Chancellor of the Duchy under Lord Derby's Government in 1852. I applied through Mr. Danvers, to know whether the duchy would be willing to sell. That application was taken into consideration, and I hold a letter in my hand from Mr. Danvers, dated the 25th November 1852, in which he communicated to me the decision of the Chancellor, which, as it is short, perhaps I had better read: "My Lord Duke, I beg to acquaint your Grace that the proposal you recently made to purchase the dispersed parcels of land included in your Grace's leases of the bailiwicks of Ultra and Citra Trentham, and Bassetlaw, was yesterday considered by the Chancellor and council, who concurred in the expediency of disposing, under the authority and powers given by the Act of 48 Geo. 3, c. 73, of these detached pieces of land. They were also of opinion that the bailiwicks should form part of the purchase and sale. Should your Grace be of the same opinion, the Chancellor and council would request your Grace to make an offer for the property; and they have desired me to explain to your Grace that their reason for proposing this course is to avoid the expense of sending a surveyor to make a valuation until there be a nearer prospect of a result." I replied to that letter immediately, begging to know whether my offer, which I was ready to make upon those terms, was to be based upon the purchase of the remaining term of my lease, and the value of the reversion, or only of the latter, as of course it would make a material difference to the offer which I made. To that I received an answer, that inasmuch as I should be able to dispose of any portions of the property during the lease, the duchy conceived that my object was to purchase immediately, and, therefore, I might make an offer upon those terms. I accordingly wrote to my agent, to desire him, under the terms of that letter, to make a valuation, in order that I might make an offer to the duchy. He proceeded to examine the whole of the property personally, and he sent me up a statement of which the paper that I hold in my hand is a copy, and I will put it in, if the Committee desire it. It states, first of all, the quantities I have already given, 170 acres; then the annual value set on the allotments at the last renewal is 164*l.* 8*s.* 2*d.*, including, of course, quit rents; the rent received by me is 166*l.* 13*s.* 8*d.* The annual value, according to this estimate, is 190*l.* 7*s.* 4*d.*; the land-tax to be deducted, is 14*l.* 0*s.* 8*d.*; leaving a net value of 176*l.* 6*s.* 8*d.* He then proceeds, in another column, to put the extreme value upon each plot, most of the land being valued at from 30 to 32 years' purchase, and the existing quit rents. Of course he could only take the duchy rate of those not existing, and he valued them at 28 years' purchase, making the whole a valuation of 4,800*l.* 19*s.* 6*d.* He then computes the value of the leasehold interest, 18 years being unexpired, taking into account the annual reserved rent of 134*l.* 2*s.* 3*d.*, which the Committee will find comes to 581*l.* 13*s.*, thereby leaving the net value 4,219*l.* 6*s.* 6*d.* My agent accompanied this statement with a letter, saying that he, of course, having valued it for the purchaser, had valued it at the extreme price which he thought the purchaser ought to give; that he did not doubt but what the duchy surveyor had valued it at a lower figure, and he therefore advised me to make such offer below that sum as I thought was fair and reasonable, but certainly not exceeding 4,000*l.* I at that time employed, as my London solicitor, Mr. Parkinson, who is since dead, and I consulted him more as a friend and a gentleman, than as a lawyer, whether under the circumstances of my holding office under the Crown, though having nothing to do with this transaction except individually, it would not be advisable that I should make no lower offer than the extreme value that I had been advised I could afford to give. He entirely agreed with me, and I therefore authorised him to offer, without a single penny's deduction, the extreme value, which was some time afterwards accepted by the duchy, in a letter which I have also here from Mr. Danvers, dated the 16th of December 1854. I may add

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add that if the Committee think fit to ask for the duchy valuation, I have not the smallest doubt that they will find that I, wisely or unwisely, took the course of paying a few hundred pounds more, in consequence of being in office, than I should have paid if I had not been in office.

1286. Is it your opinion that the sum which you offered in pursuance of that decision which you have just told us you took, after consulting Mr. Parkinson, was a high valuation for the land which was to be conveyed to you?—I think at that time it was a very full valuation; I was advised so by my agent, who of course has a better opinion upon matters of detail of that kind than I can profess to have myself.

1287. Did your Grace attend any meeting of the council in which the business of your purchase came under consideration?—Never.

1288. I believe your Grace acted in the place of the Chancellor for about a month or six weeks in the year 1854?—I did. The circumstances were these: Lord Granville was in bad health, and was advised to go to the German waters at the close of the Session of Parliament in 1854, and as I held the office of Secretary for War at that time, he knew that I should not consider myself at liberty to leave town for a single day, and therefore thought that I was one of the safest of his colleagues to leave to transact any business that might be pressing, I therefore undertook the duties at that time with the understanding that Mr. Danvers should come to my own private house early in the morning whenever there was any business to transact. He did so upon several occasions, and I recollect upon one occasion, in a list of the agenda which he brought me was an item connected with this sale. I believe that the whole matter was at that time practically concluded, but I remember stating to Mr. Danvers, "That matter I can have nothing to do with; that must be reserved until Lord Granville returns."

1289. Mr. *Coningham.*] Was not the bill which Mr. Bertolacci signed in the time of Lord Harrowby, in 1855?—I can, of course, know nothing about that; but if Mr. Bertolacci signed anything in 1855, I presume, of course, it was under some directions from Lord Harrowby, because he was Chancellor at that time. I stated that I perceived that Mr. Bertolacci, in his petition, states that Lord Harrowby agreed to sell me those lands. I said that Mr. Bertolacci was inaccurate in that respect, for that Mr. Christopher had agreed to sell them. Mr. Christopher agreed to do so on the 25th of November 1852. The conclusion of the business no doubt was in the time of Lord Harrowby, but Lord Harrowby could not, of course, have exercised any judgment in the matter of agreement to sell. The agreement was made; and I apprehend that Lord Harrowby could no more depart from that agreement, whether right or wrong, than any successor to a gentleman, who must be bound by the agreement made by his predecessor.

1290. Mr. Bertolacci complained of not having free access to the minutes of the council, and thereby being in a state of ignorance as to transactions which he deemed necessary to be aware of in the investigation of the accounts?—I have nothing to do with Mr. Bertolacci's petition; I am merely rectifying an inaccuracy with reference to that part of the transaction with which I had anything to do.

1291. *Chairman.*] Does your Grace wish to make any further remark to the Committee?—I do not.

The Right Honourable the Earl of *Harrowby*, attending by Permission of the House of Lords; Examined.

Right Hon. Earl of *Harrowby.*

1292. *Chairman.*] AT what time was your Lordship appointed Chancellor of the Duchy of Lancaster?—I was appointed on the 31st of March 1855, and I retired on the 7th of December of the same year. In beginning a short statement upon this subject, I would follow the example of all those who have preceded me, in at once stating that I cannot tax my memory with the recollection of every minute conversation, or the dates of every transaction; I have not kept a record of them, and my time has been too much occupied of late to enable me to go back into all the Duchy papers, and trace back every fact, to enable me to meet every allegation; I would therefore give a short outline of the whole of my connexion with this transaction. When I first accepted the Chancellorship of the duchy, I was told that I should probably find some

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difficulties with the auditor; that he had made difficulties, and had apparently misunderstood his position, and that, in consequence, the affairs of the duchy were very much at a stand still, and that that was probably one of the earliest subjects to which I should have to direct my attention. On taking possession of the office I found that that representation was correct; I found that there was a good deal of matter standing still, that there was evidently a radical difference of opinion between the auditor and the Chancellor and his legal advisers; that the auditor understood that he was not only to be an auditor, but that he was to exercise an independent judgment upon every transaction of the duchy. This certainly was not my own understanding of the general duties of an auditor; but I was not satisfied with that; I made inquiries from all parties whom I thought fit to exercise a judgment in such matters, and I found that it was universally understood that the duty of an auditor was to verify the transactions as authorised, but not to trouble himself with the authority itself; that he was not to sit in judgment upon the transactions of the council, but he was to ascertain simply that the transactions, as carried out, were properly authorised. This difference of view seemed to be a fundamental difficulty, which stood in the way of all other movement. Instead of simply going on with the audit of the accounts, I found this preliminary difficulty in the way: Am I or am I not to have a seat in the council? I found in the office very voluminous documents from Lord Coke, and many other matters of antiquarian law, to establish this point. Upon this point I could not pretend to exercise a legal judgment myself; I therefore asked the opinion of those who were to be my guides upon all legal questions, and they assured me that there was no authority whatever by which the auditor could claim to have a seat at the council, or to exercise a judgment upon the transactions; I found at the same time pressing upon me the necessity of laying the accounts of the office before Parliament by a certain time; and that time was already expired. I confess I did not think myself warranted in laying those accounts upon the Table of Parliament until they had been investigated; whatever the practice might have been at former times, I felt that it was my duty not to lay before Parliament accounts which had not been verified by the auditor, and I therefore pressed him to come to an early conclusion upon this matter. Still there were always debates and discussions as to what the rights of the auditor were; as to what his duties were, and the ill-usage which he met with here, and which he met with there, and I never could get the business of the office done. I am merely giving an outline of the transactions. Upon this I felt myself called upon, about the 4th of May, to give Mr. Bertolacci warning that his office must come to an end. He made a remonstrance to me; his tone and manner in that remonstrance were such as appeared to promise a greater facility in the transaction of business hereafter; I felt also the very great responsibility which a public man took upon himself when he dismissed an auditor, who might make a statement to the world that he was dismissed because he was too vigilant a watch upon the proceedings of the office; I felt at the same time that a good deal was due to Mr. Bertolacci's position, to his former good public service, to his unblemished private character, and to the high recommendations with which he had been accompanied as to his peculiar knowledge of public accounts, and I also felt that it was possible that in the transaction of the business of an ancient office, practices might have grown up which would be better altered, or negligences might have arisen, and that the experience of such a man as Mr. Bertolacci might enable me to derive advantage from his suggestions in the future transaction of the business. Accordingly that threat of dismissal was for a time suspended. At last it evidently was clear that the business could not be got on with; that I was not doing my duty according to the instructions which Parliament had assigned to me; I was not laying before Parliament the account which I was instructed to lay before them by a given time, and it was quite clear that if the mode of business was to be pursued, which Mr. Bertolacci was desirous of pursuing, it was utterly impossible that the business of the office could go on. It also presented itself to my mind, if it is really so, that Mr. Bertolacci is to be responsible for every transaction of the duchy, it is utterly impossible that a gentleman who has duties elsewhere can reconcile the two. It is utterly impossible that that gentleman so engaged can come and do over again that which has occupied days, and weeks, and months for the officers of the duchy to arrive at; and it seemed to me clear that it was impossible that we, not having a common understanding how the duties should

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be performed, and what the duties were, should be able to carry on the business of the duchy, and that, therefore, matters must come to an end. I felt, of course, that it was specially my duty in a matter of this kind to be free from all imputations that I had any partiality, that I had got rid of one man in order to put in another. There are personal connexions of my own, whom, I dare say, it might have been very agreeable to put into an office of this kind; but I felt that, as a public man, I should take a position that should be impregnable to suspicion. I, therefore, knowing that a gentleman of the Audit Office had been recommended by the Chairman and Secretary of the Audit Board, as a man who was peculiarly fitted to investigate accounts of this kind, and that he had been already engaged partially in investigating those very accounts, I felt that the best course I could take was to communicate with the Board of Audit, and ask them whether he was the best man that I could employ. I did so. I think Mr. Romilly was not at the time in the way; but I saw the secretary, Mr. Macaulay, and I asked him what his opinion of Mr. Hawker was. I knew that he had been employed originally on the recommendation, distinctly and solely, of these officers of the Audit Board, and I asked him whether, in his opinion, he would recommend the appointment of Mr. Hawker. He told me, I think, that he was in his mind, and not only in his, but, he believed, in the mind of the whole Board of Audit, the very fittest man for the place. I had never heard of his name except in connexion with the office, and I had no knowledge of his connexion with anybody else; but if his duties could be discharged without interfering with his attendance to his duties at the Audit Office, I saw no objection to his appointment. According to the view of the duties of the auditor, which had been taken by other Chancellors as well as myself, I believed that the attendance, which could be given compatibly with the duties of another office, would be quite sufficient for the purpose, although, evidently, quite inadequate for that overhauling of every transaction, and exercising an independent judgment upon it, which Mr. Bertolacci imagined to be his duty. Upon that I wrote to Mr. Bertolacci to state that I should appoint a successor upon the grounds which I believe are already in the hands of the Committee, and which I need not repeat. That is a general outline of all the transactions that I have pursued. Of course, any details I shall be very glad to give, as far as I remember them; but the details of every little transaction, what happened to-day and what upon another day, I confess myself perfectly incompetent to enter into. The Committee will see that I was aware that I took upon myself a grave responsibility, and that I felt it was a question very likely to be overhauled. I saw enough of Mr. Bertolacci to know that although high-minded, and honest, and of unblemished character, he was a man of one idea; that idea, which he had taken up after he got possession of the office, and not before, being that it was an office of great dignity and importance; and to this one idea he bent and sacrificed every other object. I felt that this was an act very likely to be misrepresented, and therefore I consulted official persons at every step. I consulted the law officers, where law was in question; and I consulted financial officers where finance was in question; and I thought I had protected myself from any imputation of having acted with personal bias at any step in the transaction.

1293. Is it true that your Lordship availed yourself of the earliest opportunity to dismiss Mr. Bertolacci, at the suggestion of General Fox?—No; I acted on my own independent judgment, and with great reluctance to dismiss him.

1294. Did General Fox in fact make to you any suggestion whatever with regard to the dismissal of Mr. Bertolacci?—I think he may have said, in a jocular way, "I wonder how you will get on with that fellow Bertolacci," in that familiar form of phrase which the General sometimes uses; but that sort of familiar conversation had no operation upon my mind, one way or the other, in the step which I took.

1295. In appointing Mr. Hawker as a successor to Mr. Bertolacci, did you do so at the suggestion, or by the advice, or on the recommendation, of General Fox?—Certainly not; and as it has been stated since that Mr. Hawker was a connexion of General Fox's, I confess that it came to me with perfect surprise; I never knew it, and the gentleman in the Audit Office who recommended him, I have since learned, was equally ignorant of the connexion.

1296. Viscount *Goderich*.] Can you make any statement to the Committee with regard to your refusal to allow Mr. Bertolacci to employ a deputy?—Yes.

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I imagined that the power which an auditor has to employ a deputy is not one that overrules the discretion of the Chancellor, but is one which may be made use of or not, according as the Chancellor thinks advisable. It is quite clear that the permission in his patent is intended, if a deputy is appointed, to give sanction to the acts of the deputy so appointed, and that the intention was not to enable an auditor to help himself in transacting business, which he was unable or unwilling to transact himself, but to appoint a deputy in case of his own indisposition or temporary incapacity to fill his place. That was the view which I took. And I should certainly have thought, seeing the fundamental difference of opinion which existed between Mr. Bertolacci and the whole council upon his rights and duties, that merely to give facilities to him for appointing a deputy to act in his place or in his aid, as a substitute for himself, was deserting my duty to the office which I had to discharge. Of course the auditor himself being dismissable at pleasure, which I think the Committee must be fully satisfied of now, he could not force a deputy on a Chancellor who thought it was better that the auditor himself should go.

1297. Lord *Harry Vane.*] You had no personal objection to the gentleman whom he suggested, Mr. Coleman?—Not the least.

1298. Mr. *Coningham.*] Did not your Lordship refuse to allow the account for 1854, in May 1855, to be produced to Mr. Bertolacci?—I did; at least, to the best of my recollection.

1299. Were not those accounts the accounts that had to be presented to Parliament?—I wished to see those of 1853 out of hand, as evidence that the work was really going on, before the account of 1854 was applied to, and I never could get any evidence that any progress had been made in the previous year, and I wished to force Mr. Bertolacci to do something with the previous year before he undertook the second year.

1300. Did not your Lordship propose to dismiss Mr. Bertolacci in May 1855, before the accounts were delivered to him, which had to be audited for Parliament?—I threatened him with dismissal before certainly, because I found that no steps were taken to advance the business of the office.

1301. Did not Mr. Bertolacci attend at the duchy over official hours to audit the duchy accounts?—Yes, he did; and that was one of the great grievances that I had against him; that according to his way of carrying on the transactions, the office must have been working double tides constantly. The sort of investigation to which he submitted those transactions would have imposed upon all the officers of the duchy, that they should have been worked double days, sometimes till nine o'clock in the evening. I felt that I had a duty to discharge towards the other officers of the duchy, and therefore I had no right to keep an auditor to impose upon them labours which were not those that they had reason to expect. In fact, Mr. Bertolacci's views of the nature of his duties were incompatible with his functions, combined at the Ordnance and at the duchy. He was on the horns of a dilemma. If he was right as to what he had to do at the duchy, he could not hold his situation at the Ordnance. I did not conceive that he was right, but he clung to his right to entertain matters in that way, and the view that he took rendered it impossible for the business of the office to go on, except by working double hours; and I did not see what right I had to impose that tax upon the other officers.

1302. Was not the audit of the accounts delayed by their being withheld from Mr. Bertolacci?—If he had audited the accounts of 1853 at once, he would have had those of 1854 next; but there was no use in giving him those of 1854, until those of 1853 were disposed of. I could see no evidence that any progress was made in any one account; indeed there was some reason to believe that no progress had been made, for, his appointment being in May 1854, it was not till December that the first request from Mr. Bertolacci, in regard to some important papers, was made, as if he had only then begun to apply himself to his work.

1303. *Chairman.*] That was before your Lordship was Chancellor?—Yes; but I found it so in the necessary investigations which I had to make at that time.

1304. Mr. *Coningham.*] Did not your Lordship refuse to allow Mr. Bertolacci to exercise the right granted to him by his patent of availing himself of the assistance of a deputy?—I think I have explained before, that I did so, and that I explained the reason why I did it.

1305. I think you wrote to Mr. Bertolacci on the 11th of August 1855, saying that

that you had superseded his patent?—Yes, that was the form which I was instructed was the proper form for the purpose.

1306. Did not you say that you had read General Fox's letter of the 4th of May, in which he said that he would recommend the Chancellor to make Mr. Bertolacci confine himself to the duties of the Ordnance?—Yes, I did. It is referred to in my letter of the 4th of May, as one of the documents before me.

1307. At that time had the accounts of 1854, which had to be presented to Parliament, been rendered to the auditor to be examined?—I can hardly tax my recollection with the particular circumstance at the moment, but I should not be surprised if they had not; because I know that my object was to hold back 1854 until I got evidence that 1853 was not only in progress but was finished; but whether at that moment it was in hand or not, I really cannot tax my recollection. I desired that 1853 should be completed before 1854 was begun.

308. Was it not stated in the letter which Mr. Bertolacci wrote to you on the 18th of April 1855, that the accounts of the receiver-general to the 30th of September 1854, which had to be audited for Parliament, had not been rendered to him, and was it not in reply to that letter that Mr. Bertolacci received his first intimation of the intention of dismissal?—It was not simply in reply to that letter of the 18th of April; it was, as will be seen by a reference to that letter itself, as the accumulated result of a great number of difficulties which had been interposed by Mr. Bertolacci in the proper discharge of his office, that I came to the conclusion that he ought to be replaced. It certainly was not by reason of his asking for the accounts of 1854; there could be no reason for dismissing him because he asked for the accounts of 1854, but he was dismissed because he would not go on with the work which he had in hand.

1309. The accounts which were in hand at that time had been presented to Parliament?—They had been presented to Parliament, but I confess that I thought it was an improper mode of proceeding, that accounts should be presented to Parliament which had not gone through the regular course of audit. It was not right that there should be a blank in the accounts; that 1853 should be neglected, and 1854 proceeded with. I was informed that it was quite understood, when Mr. Bertolacci accepted the office, that he was to fill up that blank which had arisen in consequence of the indisposition of his predecessor; and I wished, no doubt, to see some evidence of his competency, and his determination to do his duty, by seeing that blank filled up before he went on to a second stage, and it did not seem unreasonable to expect that evidence of his fitness or willingness.

1310. Did not Mr. Bertolacci state that he wished for reasons of check to reserve the accounts of the previous year?—He certainly stated that, and if, having completed 1853 and rendered to me, he had said, "Having completed it, I wish to have it back again for the purpose of using it as a check on the following year," I do not see that I should have had any reason for not granting that request, but until 1853 was done I did not see any reason for his having 1854, and there could be no reason for having 1854 while he had in his hand 1853 unfinished. Perhaps I might be allowed to state, in reference to a former question, that it is not always convenient to take the real facts of the case from the question put; the question not always being put with exact reference to the words; I have been asked in reference to General Fox's letter, whether I had read the letter in which General Fox stated that he should suggest to the new Chancellor that Mr. Bertolacci should confine himself to the business of the Ordnance; but on referring to the letter of General Fox specifically, I perceive that it bears entirely a different aspect; General Fox, I conceive, never said what the question implies; his words are these: "In conclusion, I have to inform you, that so soon as a Chancellor is appointed, I shall place the whole of this subject before him; I shall further suggest that you should" (as an alternative) "either give proper time to the business of this office, or that you should confine your duties to the Ordnance Office." What there is improper in that suggestion I am at a loss to know; either he should give proper time to the duties of his new office, or confine himself to the old one.

1311. *Chairman.*] It has been stated to us by Mr. Bertolacci, that the reason why he wished to retain in his own possession the accounts to the 30th of September 1853, before he completed the making up of the accounts of 1854, was, for reasons of check; now that I have mentioned that circumstance as

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given in evidence, does that vary the opinion that you entertain as to the reason for which you refused to allow him to retain those papers?—No, I dare say what Mr. Bertolacci said may be true, that he told me that, but, as I said before, I do not see what reasons of check upon 1854 should prevent him from completing 1853; when he had given evidence that he had completed 1853, then let him ask the Chancellor for 1853 back again, to compare with 1854, or for 1854 at once.

1312. Are the Committee to understand that, at the time when you refused him permission to obtain possession of the accounts of 1853, he had neither completed the audit of 1853 nor the audit of 1854?—I had no evidence that the accounts of 1853 were completed; as far as I recollect, I subsequently called upon Mr. Bertolacci for an account of the extent to which he had carried his audit; and he then represented the audit as only partial up to that time.

1313. Viscount *Goderich*.] Was that to which you objected, that he had not completed the audit of the year 1853, and that consequently you did not wish him to proceed to the audit of 1854 till that previous audit was completed, or was it that you objected to his being able to refer to the accounts of 1853, with reference to the audit of the subsequent year?—The accounts of 1853 ought to be first restored, when audited, to their proper place, and I do not conceive that those, when restored, are to be open to the auditor to take away to his own private lodgings; let him apply when 1853 is completed, and that question would be considered; but it had not got into that position.

1314. *Chairman*.] Was it in fact your complaint against Mr. Bertolacci at this period, that he had not completed the audit of the year 1853?—That was a part of my complaint, it was not the whole, there were a great number of other charges; there was the difficulty of carrying on the daily business of the office; there were parties whose contracts had been signed, and who could not get them through, because the auditor would not affix his signature. Complaints were going on, and we were in danger of being sued in courts of equity, for not completing our contracts, and there were several other difficulties of that kind happening; and we found that the business of the office was being stopped.

1315. Did Mr. Bertolacci ever complete the audit of the accounts of 1853?—I cannot answer that. Perhaps an allusion has been made to the case Duke of Newcastle; I may be allowed to add, that I was merely ministerial in carrying out the contract already entered into by Mr. Christopher, and I may state with regard to a certain Bill which I carried through Parliament, that it had no reference whatever to a doubt about the constitution of the council. That doubt, which had not shaken the mind of Lord Campbell, certainly had not shaken mine. The authority of Mr. Bertolacci could not weigh in the scale against such legal authorities as I had on my side. The object of the Bill simply was to enable us to carry on the business of the duchy more economically, by limiting the area of the property. We had found that the powers already conferred upon the duchy were limited to very small parcels of land, and that they were ineffectual for our purposes.

1316. Lord *Harry Vane*.] They were indefinite?—They were rather fettered; there were little scraps of land here and there scattered over many counties, and I had a strong opinion that by a considerable concentration of the property of the duchy much might be done for it. I may state that I think that several of Mr. Bertolacci's suggestions of detail were useful, and we adopted several of them. I think that he was quite right in requiring a particular account of all the property of the duchy with its value, that the auditor might have something to refer to simply in one general volume, instead of hunting through a number of volumes. I think he was right in pressing that a balance should be struck upon a certain day; he made several suggestions that were useful, and such as might naturally emanate from a man as familiar with public accounts as he was; but, on account of the value of such suggestions as those, we were not to fetter the whole action of the office.

1317. Mr. *Coningham*.] Were not the accounts of 1854 ultimately, however, given to Mr. Bertolacci in June 1855?—I believe they were ultimately.

1318. Was not he auditing the accounts of 1853 and 1854 at the time that he was superseded?—I suppose he was, but I think that having been in office for more than a twelvemonth he might have audited the accounts of one year in all that period. There are several reflections made in the course of Mr. Bertolacci's petition upon the manner in which he was treated at the office. Perhaps there

there is some justice in them; but the Committee will have seen that Mr. Bertolacci on very slight grounds is very suspicious, and they are aware that men of honour are not very much pleased when every little uncertain act of their own, that has no meaning at all, is immediately interpreted as a ground of very grave suspicions, and naturally, under those circumstances, gentlemen who have hitherto been always trusted are not quite so much masters of themselves, and they may break out now and then into little expressions of impatience, which they had better upon the whole have abstained from.

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Lieutenant-General *Charles Richard Fox*, called in; and Examined.

Lieut.-General *C. R. Fox*.

1319. *Chairman.*] I BELIEVE you are Receiver-general of the Duchy of Lancaster?—I am.

1320. Have you any statement which you wish to make to the Committee with reference to Mr. Bertolacci's evidence?—I wish shortly to make two remarks upon two points which appear in the evidence. In the first place Mr. Bertolacci stated that my father appointed me Receiver-general, which is so far true that he did appoint me, but the gist of that assertion is, that it was through the favour of my father which it was not. Now my father did not, as it happens, intend to appoint me. He had already decided to appoint another gentleman, Mr. John Allen, but the King sent for my father, by Sir Herbert Taylor, and requested that he would appoint me to the office. The second subject which I wish to mention is with reference to Mr. Hawker. Mr. Hawker's mother is my wife's half-sister, but I never knew of the existence of that particular Mr. Hawker. I knew one Mr. Hawker who was in the Ordnance Office with Mr. Bertolacci, where I was Surveyor-general of the Ordnance; with him I was very intimate, but I did not know of the existence of the other Mr. Hawker, therefore I could not know that he was to be appointed to the duchy, and only knew of his appointment several days after it, when Mr. Ch. Hawker said, "My brother has been appointed to your office at the duchy," and that is all I know upon the subject. With regard to the insulting letter in which I did not give Mr. Bertolacci his proper title, I need not say that really the not putting "Esquire" to his name must have been an omission. I certainly had not any intention of doing such an ungentlemanlike thing as omitting it. With regard to what I said of him to Mr. Connell, I do not remember the expression, but I have no doubt it is perfectly true; it was my opinion then, and it is still my opinion.

1321. Mr. Bertolacci seems to think that you are adding the term "Lieutenant-general" to your signature to a letter addressed to him, was intended to demonstrate the superiority of your rank over his. Had you any such intention?—No. Whenever I write a formal letter, not to an intimate friend, I always sign my title afterwards, which I believe is a common custom. I certainly had no such intention as that alluded to in the question. I wish to state one thing with reference to a question which was asked Lord Harrowby; Mr. Bertolacci never audited the accounts of any one year, neither of 1853 or 1854, nor of any other year. He never concluded them.

1322. Mr. *Coningham.*] Does not Mr. Gooch receive his salary as a clerk in the office, independent of any emoluments which he receives from the Receiver-general?—Certainly.

1323. Therefore the time that he was required to attend, overtime, was not taken from the duchy?—Mr. Gooch collects the rents. He does not keep the duchy clerks after hours. The complaint against Mr. Bertolacci, and which we all felt very strongly, was, that he came to suit himself after the office hours, and troubled them with reports and long discussions, which caused a great deal of inconvenience without any result. The business that Mr. Gooch does for me, and for which I make him an allowance from my salary, is to collect Her Majesty's rents and account for them; for these rents I am responsible. Mr. Gooch collects them and does all the necessary work at his own convenience, without troubling the other clerks at the office. What Mr. Bertolacci wishes to infer as to overtime is utterly incorrect; there is no sort of analogy between his proceedings and those of Mr. Gooch.

Mercurii, 15° *die Julii*, 1857.

MEMBERS PRESENT.

Mr. Bramston.	Viscount Goderich.
Mr. Coningham.	Mr. J. Hans Hamilton.
Mr. Sotheron Estcourt.	Lord Harry Vane.

T. H. S. SOTHERON ESTCOURT, Esq., IN THE CHAIR.

The Right Hon. *William Monsell*, a Member of The House; Examined.

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1324. *Chairman.*] IN the year 1854, did you fill the office of Clerk of the Ordnance?—Yes.

1325. Was Mr. Bertolacci at that time a clerk in your office?—Yes.

1326. Were you made acquainted with the intention to appoint Mr. Bertolacci to the office of auditor before his appointment to that office?—Yes, by Mr. Strutt.

1327. Will you be so good as to give us information of what passed between you and Mr. Strutt with regard to the appointment of Mr. Bertolacci, he being at that time a clerk in your office?—Mr. Strutt came to me one day in the House of Commons, and asked me whether there would be any objection to allowing Mr. Bertolacci, at that time a clerk in my office, to fill also the office of auditor of the Duchy of Lancaster. I had some conversation with him upon the subject, and, as far as I can recollect, the general outline was, that I expressed to him the strong feeling I had that the whole of the duty of every public servant belonged to the public; but that, at the same time, if Mr. Bertolacci could discharge the duties of auditor of the Duchy of Lancaster without in any way interfering with his duties as a clerk in my office, I did not see any objection to allowing him to do so.

1328. Did Mr. Strutt, at that time, ask you for any particular indulgence with regard to leave being granted to Mr. Bertolacci, in order that he might have time to attend to the duties of the auditorship?—My impression is (but I must request the Committee to bear in mind that I do not pretend to be very accurate upon the subject) that Mr. Strutt asked me whether Mr. Bertolacci might have a few days' leave of absence, in order to start the duties of auditor.

1329. Having had that conversation with Mr. Strutt, what was the purport of your communication with Mr. Bertolacci upon the subject?—Mr. Bertolacci communicated with me in a letter which I hold in my hand, dated the 16th of May 1854; I need not read the letter, for I believe it has been given already in evidence. My minute upon it is dated the 22d of May 1854, and is to this effect: "I have no objection to Mr. Bertolacci accepting the appointment offered to him on the terms his letter contains; he must in no case be absent during office hours, or during those extra hours on which the services of the clerks in this office are required in times of pressure without my written leave.

1330. What took place thereupon with regard to Mr. Bertolacci's leave of absence from your office; did he apply to you for leave of absence?—I do not know; Mr. Smith, who was my chief clerk, would be able to give you better evidence upon that subject.

1331. Were you acquainted with the fact that there were some complaints, or a disagreement between Mr. Bertolacci and the officers of the Duchy of Lancaster with regard to the performance of his duties?—I never was acquainted with it until it was stated in the House of Commons, I think during the present Session, or that part of the Session of the last Parliament which took place during the present year.

1332. Was that the earliest period, namely, some time in the present Session, at which you ever knew that there was any complaint that Mr. Bertolacci had not

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not such leave of absence from your office as would enable him to perform the duties of his office?—No, it was not; Lord Granville came to my office and had two or three communications with me upon the subject, and was anxious that I should allow Mr. Bertolacci to devote a larger amount of time to the duties of the office of auditor of the Duchy of Lancaster. I stated to Lord Granville that I considered it to be a most objectionable thing to allow a person paid for the discharge of the duties of one office to devote any of the time for which he was so paid to the duties of any other office, and therefore I was obliged to decline to accede to the request that was made to me.

1333. Mr. *Coningham.*] Is that letter, to which you refer, of Mr. Bertolacci's such as he wrote to you at first, or such as you required him to write, with some amendments?—I cannot say.

1334. *Chairman.*] Having requested your attention to the answer made in the evidence to Question 489, is there anything in that answer which contradicts your recollection of what passed?—I have no recollection one way or the other; I think it is quite possible that this occurred.

1335. Viscount *Goderich.*] Are the Committee to understand, that it was only in the present year that you became acquainted with the fact that Mr. Bertolacci had had any differences with the officers or authorities of the duchy?—I had no knowledge of it until it was mentioned in Parliament.

1336. Do you recollect receiving, on the 15th of June 1854, a letter from Mr. Bertolacci, applying for the usual leave of absence?—I have no recollection of receiving that letter, but I have no doubt, from inquiries that I have made at the office, that such a letter did come to me.

1337. Can you give the Committee any explanation with regard to the statement made by Mr. Bertolacci upon that subject?—When I first became a member of the Ordnance Department, the leave of absence for clerks was four weeks in the year. There was a committee appointed by the Treasury to investigate the matters connected with the Ordnance Department, I think, either at the end of the year 1853 or the beginning of the year 1854. I was a member of that committee, and it was there decided that the leave of absence to clerks should be extended to six weeks each year; and accordingly I issued an order on the 15th July 1854 to the following effect: That six weeks leave of absence or 36 working days be allowed to the gentlemen in Pall-mall instead of one month. Every absence accorded by medical certificate was to be included in those; and the special condition was, that there was to be no arrears of business. On the 19th of June 1855, on account of the great pressure of the war, I issued an order that in the present year, 1855, if the state of the business will admit of leave of absence it may be granted, but for a period not exceeding three weeks instead of six, subject, however, to the conditions specified in the regulations. With regard to the transfer of Mr. Bertolacci from one portion of the Accountant-general's office to another, I myself am not personally cognizant of the matter at all, but I have made inquiries of Mr. Mitchell, and he informs me that Mr. Bertolacci was employed on the register for 30 days in July and August 1855 during the absence of the usual registrar, and he states, "I gave the register to Mr. Bertolacci as a fit person from his position in the office to perform the duty, and cannot understand why it should have kept him longer at the office than in the performance of his ordinary duty in the branch from which he had been for that short time detached, and I had not at that time any knowledge of his duty as auditor of the Duchy of Lancaster, the correspondence upon that subject being confidential." That communication was addressed to me by Mr. Mitchell at my request. Mr. Smith, the Accountant-general, was at that time, on account of illness produced by the severity of his duties at the time of the war, absent on leave, and Mr. Smith was the person who was acquainted with the correspondence that had taken place with Mr. Bertolacci with regard to the Duchy of Lancaster, and Mr. Mitchell here states that he was not at that time acquainted with the correspondence.

1338. Was it Mr. Mitchell or Mr. Smith who made the transference?—Mr. Mitchell, in Mr. Smith's absence.

1339. *Chairman.*] Therefore the individual who had made the transference was not cognisant of the correspondence which had passed with Mr. Bertolacci?—So he informs me.

1340. Viscount *Goderich.*] Was that transfer made by your direction?—Not at all; I was not aware of it.

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1341. Nor with your cognisance?—Nor with my cognisance; there were about 200 clerks under me, independent of those on out stations, and the details of their government was, except in special cases, managed by the heads of the different departments.

1342. *Chairman.*] Was the business in your office during the summer months of that year, in consequence of the war, very much increased?—Enormously increased; but not so much in the department in which Mr. Bertolacci was placed as in other departments, because the accumulation of business, the wave as it were, had not at that time reached the cash account office, the accounting office.

1343. Had the pressure of business reached the department to which Mr. Bertolacci was transferred?—No, I think not; it was a portion of the same department; it was the registry branch of the same department.

1344. Mr. *Coningham.*] Was not Mr. Mitchell under your immediate superintendence in the absence of Mr. Smith?—Yes; he filled Mr. Smith's place during Mr. Smith's absence; he discharged, during that gentleman's absence, the duties either of accountant-general or chief clerk; I forget which office Mr. Smith filled at that particular time.

1345. Lord *Harry Vane.*] Mr. Smith was absent on account of illness?—Yes, which was caused by the pressure of business.

1346. Mr. *Coningham.*] Was not the four weeks leave in addition to the leave taken by way of odd days with the sanction of the head of the branch?—No, I think not; I think that was counted; I have here an account of the absences of Mr. Bertolacci during that year; he was absent in that year 23 days, with leave of 28 days on account of illness.

1347. *Chairman.*] In the twelvemonth beginning January and ending December?—It says, "Was absent in that year;" I presume that was so.

1348. Do the days you have given, 23, with leave of 28, on account of illness, include the whole leave given or taken by Mr. Bertolacci in the course of that year?—In the course of the year 1855; and I may add that I never gave Mr. Bertolacci, during that year, leave of absence, which I would not have given to him if he had not been auditor of the Duchy of Lancaster.

1349. Viscount *Goderich.*] It is stated, in answer to Question 678, that after the leave of absence had been reduced from six weeks to four weeks, it was further reduced to three weeks. Is that consistent with your recollection of the facts?—It never was reduced from six weeks to four weeks; it was four weeks originally; it was then raised to six weeks after the report of the committee I have already spoken of; and then on account of the pressure of the war, I reduced it to three weeks; but it never was reduced from six weeks to four weeks.

1350. You did not make that reduction with any special reference to Mr. Bertolacci's case?—Not the least in the world.

1351. It was a general reduction, applying to everybody in the office?—It applied to the whole department; to his branch as well as to all the other branches.

1352. Mr. *Coningham.*] Were not the extra two weeks allowed to the gentlemen of the department, making the yearly leave six weeks instead of a month, so that that leave might bear the deduction for the odd days, which were formerly not deducted from the month's leave of absence?—I really cannot answer that question. I cannot state what the ground was. My impression is, that it was that we considered it was rather a hard case to keep people at the desk 11 months in the year, and that they ought to have a couple of weeks more leave of absence. It was an arrangement made during a time of peace, and it might have been carried out at that time, I think, without inconvenience to the public service.

1353. Did not the minute granting the six weeks specially state that any odd days leave should be deducted therefrom?—I have not got the minute here. You can, no doubt, get the minute at the office.

1354. *Chairman.*] Was not the result of this sudden diminution of the amount of leave of absence that it bore harder upon Mr. Bertolacci, for instance, inasmuch as the leave of absence he had already obtained at odd times previously had to be deducted from the amount of three weeks instead of six weeks?—It had

had the same effect upon Mr. Bertolacci as upon everybody else; at that time the department was working, I may say, night and day. I was at work myself from 10 in the morning till 9 or 10 in the evening, very frequently; and I was hardly ever absent. My health suffered very considerably from the labours I had to go through; and Mr. Smith's health, I am sorry to say, has entirely broken down, and he has never recovered.

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1355. Mr. *Bramston.*] What steps were taken to make this reduction from six weeks to three weeks known to the officers of the department?—This memorandum which I have read was transmitted to the heads of all the different branches.

1356. Lord *Harry Vane.*] And announced by the head of each branch to the persons under him?—Yes; the copy I have here happens to be the copy which was sent to one of them; this is the memorandum, dated 19th of June 1855, which was sent, I think, to the clothing department.

1357. Mr. *Coningham.*] Was not Mr. Bertolacci's the first case at the time in which a reduction was made?—It was a general reduction, which applied to everybody from the date of the 19th of June; whether Mr. Bertolacci was the first person it applied to I cannot say.

1358. Viscount *Goderich.*] Had you anything to do with the decision of particular cases, or did you lay down a general rule, and did the heads of the departments communicate it to the persons under them?—I had nothing to do with particular cases, any special case would have been brought under my notice.

Frederick Dawes Danvers, Esq., called in; and further Examined.

1359. *Chairman.*] YOU were interrupted the other day in the course of some remarks you wished to lay before the Committee upon parts of Mr. Bertolacci's evidence; will you be so good as to continue them?—When I was last before the Committee I pointed out a note at the bottom of Paper No. 5, page 9, "That the clerk of the council has stated to me" (that is, to Mr. Bertolacci) "that the Queen took no part in the appointment of the members of the council, and that they were such noblemen and gentlemen as the Chancellor thought fit to call to his advice." I stated to the Committee that I thought it was impossible I could have made that statement, because I had actually sworn those noblemen and gentlemen before Her Majesty. Since I stated that to the Committee, I have had an opportunity of referring to a copy of the letter in which my communication to Mr. Bertolacci was made, dated 22d January 1855, and it seems the more extraordinary that this statement of what I said should have appeared in the note, inasmuch as that letter is referred to in the margin of the same page; so that it appears that the letter was in Mr. Bertolacci's possession at the time this observation of his was made. I state, in that letter, "The mode of passing grants in fee by bills is not by statutory enactment," (this is in answer to the inquiry,) "nor is there any Act of Parliament making provision for the appointment of parties (officers of the duchy or not) as members of the council. The Duchy of Lancaster is the private property of the Sovereign, and the Queen, or the Chancellor of the duchy, to whom is delegated authority to manage the affairs of the duchy, appoints such members of the council to aid and advise him as may be deemed expedient and advisable."

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1360. In the letter that you have just read is the appointment of the members of the council distinctly stated to be in the Sovereign?—It is stated to be in the Sovereign or in the Chancellor of the duchy.

1361. Were such members of the council as were from time to time appointed sworn into office before the Queen?—If I may so term it, the batch of the new council was sworn in before the Queen; there were subsequent appointments. Colonel Phipps and Mr. Strutt were appointed severally in addition to the former members, a vacancy having occurred by the death of Mr. Anson, upon that occasion the Queen did not require Colonel Phipps to be sworn in Her Majesty's presence, but before the Chancellor, as the official members of the council are sworn, and so also with respect to Mr. Strutt.

1362. Mr. *Coningham.*] Had those gentleman ever any document or paper from the Sovereign?—No patent whatever, nor any document of appointment; they were merely sworn in as members of the council.

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1363. Were they sworn in before the Queen?—Yes, the six were sworn in in 1847. At page 5 at the bottom of the same paper I am alluded to as having given information; therefore it is necessary that I should explain that. Quoting from Lord Coke, it is there said, "The officers of this court to be the Chancellor, the attorney, the receiver-general, clerk of the court, the auditors, surveyors, the messenger. There is an attorney of the duchy in the Chancery, and another in the Exchequer; there be four learned in the law assistants, and of council with the court." Mr. Bertolacci goes on to state, "It has been said by the clerk of the council to me, that this was no authority for the auditor being a member of the court, as it was an absurdity to suppose that the messenger should sit at the council. The argument he sets up in this case is wrong, by the assumption first, that, because the messenger is mentioned an officer of the court, together with the Chancellor, attorney, surveyor, and auditors, that therefore the quotation implies he is a member of the council, as this part of the commentory had reference to part enactments," &c. I do not think that this quotation implies that the messenger is a member of the council, but what I say is this, that if this passage from Lord Coke, as to who are the officers of the duchy court, be adduced as a proof that the auditor is a member of the council, it might also be adduced as a proof that the surveyors and messenger were members of the council. I do not find that this part of the Institute has reference, as here appears to be stated, to enactments; it appears to be simply a statement by Lord Coke, setting forth who were the officers of the duchy court in his time. The passage in Lord Coke is, "The officers of the court be the Chancellor, the attorney," and so on. In this print of the communication made to Lord Granville, it states the officers of the court "to be," the word "to" being inserted, which would lead to the inference that it was a quotation of a statutory enactment, which it is not, the word "to" is an insertion which might lead to that inference. I take it that the word "be" is a substitute for the word "are," unless it was meant to quote a statutory enactment, in that case the word "to" might be necessary. Then, to refer to the evidence at Question 290, Mr. Bertolacci is asked, "Do you consider those letters consistent with each other? Certainly not; the letters of the 20th and the 21st of November are inconsistent with the letters of the 4th of May; the letters of the 20th and the 21st of November called upon me (although excluded from my seat at the council) to perform a duty which appertains to the deliberative department of the duchy, and the letter of the 4th of May 1855 points to a communication of the 18th of January 1855, from the clerk of the council, to the effect that the auditor was not to exercise any such functions." Now I beg to observe, with great submission, that the letters to Mr. Bertolacci of the 20th and 21st of November are not inconsistent with the letter of the 4th of May 1855; the letters of the 20th and 21st of November did not call upon Mr. Bertolacci to perform a duty appertaining to the deliberative department of the duchy; they merely invited him to make the suggestions, which it was understood he meant to offer on the subject of enfranchisements. In like manner, in the letter dated the 18th of January 1855, put in by Mr. Bertolacci, he was requested not to consider himself deterred by any observation made in that letter from offering to the Chancellor his suggestions or comments upon duchy matters that might come before him, and appeared to him to require correction; and surely it cannot hence be argued that he was called upon to take a part in the deliberative department of the duchy. At Question 326, it is stated that "when a property has escheated to the Crown, a certain portion of that property is retained by the Crown (I believe a tenth), and the remainder only is distributed; consequently the portion which would have to be accounted for, and the fees upon the portions of the property, would be regulated according to the whole amount of the property." Now, in cases of escheat of real property, the whole is re-granted; neither with the Treasury on behalf of the Crown, nor with us on behalf of the Queen, in right of her Duchy of Lancaster, is it the custom to reserve any portion of the escheated property; it is only in the case of personalty.

1364. Viscount *Goderich*.] Does not that fact appear upon the face of the bill in the case of Focke?—Yes; because there are five persons to whom fifths of the whole are directed to be distributed. At Question 375 an inconsistency is spoken of by Mr. Bertolacci in his being required to attach the word "auditor" to his signature to the certificate in the place where I had stated by my letter to him of the 8th of

8th of June 1854, that it was not necessary that the title of his office should be affixed; I do not think there is any inconsistency. Unless the word "auditor" were affixed to his signature, it would not be on record by what officer the certificate of the bill was signed. On former occasions the auditor signed in two places; it was, of course, only necessary that his designation should appear in one; having appeared in the first place, it was unnecessary that it should appear in the other. I think that the receiver-general's account is termed by Mr. Bertolacci a compilation or collection of particulars. He says, in answer to Question 514, "I can hardly call it a system of accounts such as I found it to be in the duchy; it was merely a compilation of facts rendered once a year to the auditor." The Committee will see on inspection of the accounts which will be laid before them whether this term can properly be applied to them.

1365. Mr. *Coningham.*] Were those accounts made up from any previous journal of accounts?—That will be better answered by Mr. Gooch, because he kept the accounts, and not I. I know very little of the accounts, except as they are brought to the Chancellor to be declared, and in that case they do not appear to be merely a compilation of facts.

1366. You dispute the assertion of Mr. Bertolacci, and I ask you that question?—I am questioning the assertion certainly of Mr. Bertolacci as to the annual accounts of the receiver-general being merely a compilation of facts. I am a judge of that to this extent, that when they are audited, they are brought to me to lay before the Chancellor to be declared; but I know very little else of the accounts beyond that. At 602 the question is, "Did you not put that forward to Earl Granville in your remarks dated the 2d of February 1855, on the draft of the instructions which he then proposed to give you, as a proof that the functions of the auditor were not solely ministerial, but that they were also deliberative and judicial?" it is alleged "that it is the duty" from the statement I have made to the auditor, "of the auditor and the clerk of the council to examine annually (about this time of the year) into this sufficiency of the security bonds entered into by or on behalf of the officers of the duchy. Whenever convenient to you to make an appointment for this examination, I will have the bonds out in readiness." Mr. Bertolacci adduces this as a proof that his duties were considered deliberative, and not ministerial. Now, inasmuch as this examination of the bonds was pursuant to an order of the duchy court, I should say it was actually a ministerial duty, and not a deliberative one.

1367. Is it not stated that the auditor was to examine into the sufficiency of the security bonds given by or on behalf of the receiver-general or other officers?—Yes, but I look upon that as a ministerial duty, and not as a deliberative duty; the duty was pointed out; what was the auditor to do; he was to examine the accounts; there was no deliberation necessary as to the concerns of the duchy.

1368. Was not it competent to him to increase or diminish the amount?—No; it was quite competent to the auditor and the clerk of the council to suggest any alteration to the court, but neither the auditor nor the clerk of the council had the power of raising or diminishing the amount of the security. Question 613 is a question having reference to receipts, and signatures to receipts, being attested by witnesses; and it is said at the middle of page 11, that "a letter was 'procured' by the duchy officials from Mr. Macaulay," as if the communication had not been in the regular official way of business; those letters have been put in; there was first a letter of inquiry to the commissioners of audit, and that was answered by their secretary; then at page 12, very nearly at the top, an assertion by Lord Harrowby is alluded to, "That I was required to sign the bills in the usual way," and it is stated to be "inconsistent with the fact." I think it has been proved before the Committee, that it was the usual way from the year 1844, when Lord Granville Somerset made that alteration. Then an allusion is made rather lower down in the same page, that Mr. Bertolacci "is now required to give his sanction and approval to that over which he has been deprived of any check or control." Still Mr. Bertolacci is going upon the assumption that his sanction and approval were necessary. At 667, with reference to the sums having been paid, or having not been paid, for grants in fee when bills were presented for signature, I beg to state that the bill is merely a transcript or copy of what the grant is to be; it is not necessary that the sums should be previously paid; it is quite necessary that the money should be paid before the grant passes the duchy seal. I beg to bear testimony to the correctness of Mr. Bertolacci's statement at 675, that a

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missing paper of some description, after being a long time mislaid, was found mixed up with some papers of mine; it is quite true; it was a matter of great regret to me that it was so; but none of us knew where it was; it was afterwards found among some papers in my room. Before I retire, I perhaps may be allowed to state, with reference to a rupture that is represented in the evidence to have arisen between Mr. Bertolacci and Mr. Gooch, that Mr. Gooch has been known to me as a very excellent, efficient, and zealous officer of the duchy during a period of very nearly 30 years, and that though in the course of that time we have had many arguments and many differences of opinion, and some of those arguments may have been carried on rather warmly, he has never in a single instance that I have known of forgotten himself. I think it due to his character to state that.

1369. Mr. *Coningham.*] Is not the business of the duchy office under your supervision in your capacity of clerk of the council?—Yes; under the Chancellor and council.

1370. Are you not always in attendance on the Chancellor of the duchy when he is present; and were you not in such attendance when Lord Harrowby was appointed Chancellor?—To some extent I am always present. I am there, and ready to answer questions when required. I was frequently in attendance on Lord Harrowby when he was Chancellor.

1371. At the date of his appointment?—I always attend before Her Majesty to administer the oath of office to the Chancellor when he is appointed.

1372. Are you not the medium through which the progress of the business of the duchy office reaches the Chancellor?—Yes, I am the ministerial officer.

1373. Can you state to the Committee the precise matters on which Lord Harrowby based his allegation yesterday, that Mr. Bertolacci kept the business of the office in suspense when his Lordship wrote to him to displace him on the 4th of May 1855?—I can bear testimony to everything that Lord Harrowby said in that respect.

1374. In what way did Mr. Bertolacci keep the business of the office in suspense?—By certainly the tardiness, if not the absolute neglect of auditing the accounts. I may say that Mr. Bertolacci seldom appeared to have time to attend to the business of the office.

1375. Will you state to the Committee the precise matters kept in suspense by Mr. Bertolacci on the 11th of August 1855, when Lord Harrowby wrote to Mr. Bertolacci telling him that he had superseded his patent by the appointment of Mr. Hawker?—The principal business in suspense was the account that ought to have been prepared and rendered to Parliament. Mr. Bertolacci has stated that he was upon those very accounts at the time; but still it does not appear that much progress was made in them.

1376. With reference to your answer to my question, relating to Lord Harrowby's attempt to displace Mr. Bertolacci in May 1855, were not the accounts, the examination of which you have alluded to, as preventing the progress of the business, the accounts to the 29th of September 1854, which were closed in February last, but not given to Mr. Bertolacci until June?—If that was so, I think the reason was fully stated by Lord Harrowby, that he could not get from Mr. Bertolacci the previous account, which he was determined to have audited before the subsequent account was examined.

1377. Lord Harrowby states, in his letter of the 4th of May, that, by Mr. Bertolacci not complying with the receiver-general's request, delay has arisen in preparing the annual accounts for the Treasury; were the accounts for the year ending 29th of September 1854, just alluded to, those which Lord Harrowby, in that letter, alleged had been delayed by Mr. Bertolacci not returning the account for the year ending 29th of September 1853?—Yes, those are the accounts alluded to; but the completion of them is not to be attributed to Mr. Bertolacci.

1378. Mr. *Bramston.*] Were the accounts of 1853 completed during the time Mr. Bertolacci was auditor of the duchy?—I do not think they were audited; that would be answered better by Mr. Gooch. I do not think they were brought to me to lay before the Chancellor for declaration till after Mr. Bertolacci ceased to be auditor.

1379. Mr. *Coningham.*] Had not the account to the 29th of September 1853 been made out and presented to Parliament before Mr. Bertolacci's appointment as auditor?—I think it had; it had been the custom, with a view to meet the object of Parliament, to make out the accounts, and to send them to Parliament.

After

After that period I think it was Lord Harrowby who desired that they might always first be audited by the auditor, and receive his signature before they were sent.

1380. Viscount *Goderich.*] Can an account be declared before the Chancellor till it has been audited by the auditor?—No.

1381. Then the accounts of 1853 were not so declared at that time?—No.

1382. *Chairman.*] Were or were not the accounts of 1853 presented to Parliament before they were regularly audited?—Yes, they were.

1383. Mr. *Coningham.*] When were the accounts of 1852 declared?—In May 1854, I believe.

1384. Lord Harrowby stated to the Committee, yesterday, that when he was appointed Chancellor of the duchy, he was informed that one of the difficulties he would have to contend against was the subject connected with the auditor; did you make that communication to his Lordship?—No; I think it was made by his predecessor in office.

1385. Did Lord Granville show you Mr. Bertolacci's letter to his Lordship, dated 6 March 1855, on the subject of the rules his Lordship had laid down for his guidance, and, if so, will you read the last paragraph but one?—I shall be happy to do so if the letter is put before me, but I do not recollect that it was shown to me.

1386. This is the paragraph: "At the time when I proposed to audit the accounts of the duchy, your Lordship may perhaps remember that in my letter to the clerk of the council on the 21st December last, which was submitted to you by him, I said I would attend at the duchy office from six to half-past eight or nine in the evening, to examine the account to the 29th of September 1854 as soon as it should be made out, but as yet it has not been rendered to me. I may say that my reason for stating after six o'clock was to allow time for the deputy of the receiver-general and myself to get our dinners, and attend at the duchy office after the official hours from ten till four o'clock. If, however, my attending from half-past four to half-past six or seven o'clock will suit the arrangements of the duchy office better, I will waive the consideration of my own comfort"?—Now that that portion of the letter has been read, I do remember having seen or heard it.

Joseph Henry Gooch, Esq., called in; and Examined.

1387. *Chairman.*] WHAT office do you fill in the Duchy of Lancaster?—First clerk, and deputy to the receiver-general; they are two distinct offices.

1388. How many years have you been deputy to the receiver-general?—Sixteen years.

1389. How many years have you held the office of first clerk?—I have held the office of first clerk for 20 years, and I have been in the office for 30 years.

1390. Will you state to the Committee what salary you receive both for the one office and for the other?—I receive 450*l.* a year as clerk in the duchy office, and 100*l.* a year from General Fox as his deputy.

1391. Viscount *Goderich.*] The 100*l.* is paid by General Fox privately, and not out of the public Treasury?—Yes.

1392. *Chairman.*] Are you acquainted with the fact that Lord Granville for a series of years was in arrear of the rent payable by him to the duchy?—Yes.

1393. Can you state from what date the arrears of Lord Granville's estate commenced?—They had been in arrear, I think, before, but they were cleared up in 1847.

1394. You mean that in the year 1847 the old arrears, if there were any, were entirely paid off?—Yes, the rents were paid in 1847; they had ceased to be in arrear a year or two before that time; but from 1847 they again became in arrear.

1395. You have been present at the examination in this room, and you have heard what has been given in evidence with regard to the amount of the arrears; beginning at the year 1851 down to the year 1855, do the figures which have been given correspond with your own accounts?—I think they do; but the answer given to Question 414 so mixes the figures up, that it is impossible to understand

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understand them, and I have therefore prepared a statement showing under what heads those respective sums appear.

1396. Will you be so good as to read it?—

[*The same was read, as follows*:]

	Arrears Brought Forward.	Rents Accruing in the Year.	Land Tax Redeemed.	Period for which Rent is Due.	Gross Amount Due.	Property Tax Allowable.	Gross Amount Paid.	Property Tax Allowed.	Arrears.
	£. s. d.	£. s. d.			£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.
1851 -	4,276 6 5½	2,607 16 8 1 – –	- -	- -	6,885 3 1½	200 16 3	2,219 17 –½	64 14 10	4,665 6 1
1852 -	4,665 6 1	2,742 7 2 1 – –	- -	- -	7,408 13 3	216 1 7	1,000 – – 1,000 – – 1,000 – – 1,000 – –	- -	3,408 13 3
1853 -	3,408 13 3	3,225 6 9 1 – –	- -	- -	6,635 – –	310 3 8	630 – – 1,562 11 7	- -	4,442 8 5
1854 -	4,442 8 5	4,500 18 1 1 – –	- -	- -	8,944 6 6	310 3 8 196 19 1	1,216 1 8 1,566 2 4 1,660 4 5 1,000 – –	216 1 8 - - - 94 2 –	3,501 18 1

There is no distinction drawn between property-tax allowed and property-tax allowable. The property-tax allowed comes into account; the property-tax allowable does not.

1397. Is the estate of Lord Granville, which he holds of the duchy, at this moment in arrear?—It is.

1398. What is the state of the arrear now?—£.2,810. 3*s*. up to last Michaelmas.

1399. Had you anything to do with granting an indulgence to Lord Granville or any other tenant of the duchy as to the payment of rent?—Nothing whatever.

1400. What do you consider to be your particular business as the deputy to the receiver-general?—To receive the rents and to send in accounts as between General Fox and myself, having made all authorised payments, and paid over the balances to the bankers.

1401. It has been stated by Mr. Bertolacci that upon his asking you why the receiver-general's account for the year ending September 1852 had not been declared till May 1854, your answer was, that the account had been kept open to give an opportunity to Earl Granville to pay the arrear of rent due to the duchy?—That was impossible. It will be found, in reply to another question, that I gave that answer as a reason why the account for 1853 had not been audited previous to Mr. Bertolacci's appointment; but inasmuch as the accounts for 1852 were presented to Parliament, and printed by order of the House of Commons, bearing date the 6th of April 1853, it is quite impossible that the account can have been kept open till May 1854, to allow of Lord Granville paying up his arrears. I have made a memorandum upon that point, which, with the permission of the Committee, I will read. I did not state, as a reason why the accounts for 1852 were not passed until May 1854, "That they had been kept open as long as possible to allow Earl Granville to pay his rent"; but only as a reason why the error of 50 *l*. was not discovered in time to correct it before the accounts of receipt and expenditure were sent to the Treasury to be submitted to Parliament. The receiver-general's account for 1852 was closed on 22d March 1853. The accounts of receipt and expenditure were forwarded to Sir Charles Trevelyan on 2d of April 1853, and were ordered by the House of Commons to be printed on 6th April 1853. If the Committee will allow me to refer to Question 721, Mr. Coningham asks: "In the200th paragraph of your petition you state that Lord Harrowby advanced the illness of Mr. Lockhart, your predecessor, as a reason why the accounts for the year ending 29th September 1853 were not audited so late as the month of May 1854, have you any reason to suppose that the accounts were kept open for any other purpose? That is contained in the previous answer which I have given to the Committee, where it was stated to me in September 1854, that the reason of their not being closed was, that they were kept open to allow Lord Granville to pay the arrears of rent;

rent; and that then it was necessary to close them to present them to Parliament"; which is the fact with regard to the account for 1853, and also with regard to the error of 50 *l.*; but it in no way applied to the passing of the account for 1852: it was impossible. The receiver-general's account for 1852 was audited in May 1853.

1402. Is Mr. Bertolacci correct, or is he not correct, when he says that he heard that from you, being the deputy to the receiver-general?—He is not correct.

1403. For what purpose, and at what time did you say anything to Mr. Bertolacci respecting the account being kept open to allow the arrears of Lord Granville to be paid up?—When he asked about the error of 50 *l.*, and about the non-auditing of the account for 1853.

1404. Viscount *Goderich.*] What did you say to him with regard to those arrears?—That the account was kept open as long as possible to allow of the arrears from Lord Granville being diminished.

1405. What was the date of the conversation that you are now reporting?—September 1854, I think; possibly it may have been earlier when Mr. Bertolacci first called at the office upon his appointment; I do not know that it was not so, but it was before the end of September 1854.

1406. What reason had you for stating to Mr. Bertolacci, that the account was kept open in order to allow Lord Granville's arrears to be paid up?—Merely that it was the fact.

1407. Was it in your province to make up those accounts or not?—I always had made them up, but I had made them up before I held the office of deputy to the receiver-general.

1408. Was it the fact that you delayed the making up of those accounts for the purpose you have stated, namely, to give time to Earl Granville to pay up his arrears?—It was.

1409. And the date at which you made this statement to Mr. Bertolacci was soon after his appointment, or in September 1854?—It was.

1410. Viscount *Goderich.*] Who directed you to delay the making up those accounts for that reason?—The question of arrears had been brought before the council occasionally, and there was no pressing necessity to close the accounts before that time, and therefore I did not do so.

1411. Lord *Harry Vane.*] But you had no special direction not to close them?—I cannot say that Mr. Danvers has not directed me to write before closing the accounts to Lord Granville's agent, but I have no actual recollection of that fact.

1412. *Chairman.*] Were you directed by any person to delay the making them up, in order to give time for the payment of arrears; did you receive any other authority besides that which you have now mentioned, namely, that Mr. Danvers has requested you to write, to desire the arrears to be paid?—No; he directed me to write, and I have done so; but it was not unusual to keep the accounts open so long as that; it made only a difference of a few weeks.

1413. Were the accounts which were so delayed, the accounts up to the previous September, or were they the accounts of the current year?—The charge up to the previous September.

1414. Before Mr. Bertolacci became auditor, what was the practice with regard to auditing the accounts of the duchy, were they regularly audited before the return was made to Parliament, or subsequently?—Subsequently.

1415. During the time that Mr. Lockhart was auditor, was that the invariable practice?—I believe the invariable practice.

1416. When Mr. Bertolacci was appointed auditor, did you understand that an improved method of keeping the accounts was intended?—I understood so.

1417. Did you receive such information from Lord Belper?—Not directly; I heard of it.

1418. From whom did you hear it?—I think it was from a report of a debate in the House of Commons.

1419. Did you hear it from any one in authority in the office?—No, I do not recollect that I did. May I be permitted to draw the attention of the Committee to Question 137: "When did you first ascertain that Earl Granville was in arrear of rent to the duchy? I was first made acquainted with that fact, when I was examining the receiver-general's account, in September 1854." Then, Question 138. "Who made you acquainted with it? Mr. Gooch, a clerk in the duchy office,

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office, who receives and pays money, and makes out the account of the receiver-general." Now this (*producing the same*) is the draft of the account for 1853, and it was in Mr. Bertolacci's possession for a month or five weeks before the time that he was at the duchy office, and in that account appears the arrear of Lord Granville; and I may remark too that Mr. Bertolacci observes, that there is an error of 1 *l.* from one end to the other of the statement of account; that (1 *l.* for "way-leave") was the item standing next to the colliery rent in the book from which Mr. Bertolacci took those particulars, and there is a bracket to show that it is included, so that there is no error of 1 *l.*

1420. Can you state the exact date when this draft account, which you have now produced, was delivered to Mr. Bertolacci?—I cannot give the exact date, but I went out for my holiday a month before Mr. Bertolacci commenced the auditing of the account, and it was sent to him before I went away.

1421. Viscount *Goderich.*] You intend to state that it had been in Mr. Bertolacci's possession some time before September 1854?—I do.

1422. Before the period at which he states in his evidence that he first heard of that error?—Yes.

1423. *Chairman.*] What is the book to which you referred in your former answer?—"Deputy Receiver-general's Accounts and Rentals." It is an account kept between General Fox and myself, and as far as it goes it forms the basis of the receiver-general's account.

1424. Are you aware whether any minute was made year by year during the time that Lord Granville's account was in arrear of rent, authorizing such postponement of the payment of the rental?—Not year by year; it was occasionally brought before the council.

1425. Did you receive any directions from the council authorising you to postpone the application for the rents?—No; I made application from time to time for them. If there are any heavy arrears it is my custom to represent to Mr. Danvers that there are such arrears.

1426. What is the date, year by year, to which the receiver-general's accounts of the duchy are made up?—Now always on the 21st of December; formerly it was to some day in January, or February, or March possibly.

1427. Lord *Harry Vane.*] Then there was no fixed day?—There was not.

1428. Mr. *Coningham.*] When was the change made?—Mr. Bertolacci represented the difficulty of testing the balance, and it was suggested to Lord Harrowby that fixing a day for closing would be the best mode of obviating the difficulty, and his Lordship directed that the 21st of December should be the day. That day was selected because no periodical receipt or payment falls due between Michaelmas and Christmas.

1429. In fact, in consequence of Mr. Bertolacci's suggestions, this improvement took place in the mode of keeping the accounts of the duchy?—It was in consequence of his objection; I never heard that he suggested it.

1430. *Chairman.*] It was during the time that Mr. Bertolacci was auditor, and in consequence of some objection made by him with regard to the former mode of keeping the account that the change was effected?—It was.

1431. When Mr. Bertolacci first became auditor, till what date did you make up the returns to Parliament?—The returns to Parliament were accounts founded on the receiver-general's account and the other accounts of the duchy; the balance of the receiver-general's account appears on the returns to Parliament.

1432. To what date were they made up?—To about February or probably the early part of March, but I cannot recollect up to what date.

1433. To some date not fixed beforehand?—Yes.

1434. In what manner was the account of the contingent expenses of the clerk of the council made up?—Money was issued to Mr. Danvers, and when that was expended, he applied for another grant; but I may observe that I have nothing to do, as deputy to the receiver-general, with the clerk of the council's contingent disbursements.

1435. Did not that form an item in the return to Parliament?—It did.

1436. Was not it your business to prepare that return to Parliament?—It was.

1437. Therefore, although you may truly say that you have as it were nothing to do with the contingent expenses, I am speaking of it so far as it came within your own province; to what date were you in the habit, when Mr. Bertolacci first became auditor, of making up the account of those contingent expenses to be

be presented to Parliament?—They were embodied in the returns to Parliament, but they were made up by Mr. Danvers himself, and generally to about the previous month of October, or perhaps a little later.

1438. Will you turn to Question 461; do you remember an error of 50 *l.* being discovered in the account for 1852?—I do.

1439. In what manner did that error of 50 *l.* arise?—There was a sale of timber on the 20th of March 1851, producing 1,214 *l.* 9*s.*; discount was allowed to the purchaser, to the amount of 48 *l.*, 10*s.* 7*d.* leaving 1,165 *l.* 18*s.* 5*d.* The surveyor-general, in rendering his account relating to the above sale, included a sale by private contract, of timber for 32 *l.* 15*s.* 6*d.* making 1,198 *l.* 13*s.* 11 *d.* reduced by expenses of sale, &c. to 1,089 *l.* 12*s.* 3*d.* The surveyor-general, remitted to Messrs. Coutts & Co. sums amounting to 1,089 *l.* 12*s.* 3*d.* The receiver-general was charged in his account in 1851, with 450 *l.*, as a payment on account; in his account for 1852, he was charged with the 32 *l.* 15*s.* 6*d.* and 665 *l.* 18*s.* 5*d.* that is the gross produce of the sale, less the discount, and less 500 *l.* erroneously stated to have been put in charge, whereas 450 *l.* only had been so put in charge; so that it made a difference between the balance in the bankers' hands and the balance on the receiver-general's account of 50 *l.* This in 1853 that was set right by an additional 50 *l.* being put in charge against the receiver-general.

1440. In what manner was this error detected, and by whom?—It was detected by myself. In order to test the balance of the receiver-general's account, I used to add to that balance all receipts made between the 29th of September and the day of closing not included in the account, and deduct from that all payments made between the 29th of September and the day of closing the account, and the result should have been the exact balance in the banker's hands, whereas it showed about 50 *l.* more.

1441. Had Mr. Bertolacci anything to do with detecting that error?—Nothing in the least; it is plainly stated on the account.

1442. What is the date of that account in which it is plainly stated?—1853. It is the account which I have just produced. The item runs thus: "The gross produce of the sale by auction on the 20th of March 1851, from timber of woods within the honour of Tutbury, as appears by the account of George Legard, Esq., surveyor-general of lands and woods, was 1,214 *l.* 9 *s.*; whereof allowed for discount for prompt payment, 48 *l.* 10 *s.* 7 *d.* accounted for in the receiver-general's account for 1851, 450 *l.* (not 500 *l.*, as erroneously stated in the receiver-general's account for 1852); accounted for in the receiver general's account for 1852, 665 *l.* 18 *s.* 5 *d.*; and remains, 50 *l.*"

1443. Did Mr. Bertolacci see that account?—Yes; this was the account which he had to audit. I may perhaps draw attention to some answers in Mr. Bertolacci's evidence. In answer to Question 405, Mr. Bertolacci says that the error arose not from any deficiency paid over to the bankers, but from the receiver-general having taken credit in the account to 29th September 1852 for a larger sum (500 *l.* instead of 450 *l.*) than was actually paid into the bank. In answer to Question 407, he says that the 50 *l.* was not received; and again, in answer to Question 409, he says that the receiver-general had taken credit for a larger sum by 50 *l.* than was due or actually paid; and then, at Question 405, he says that the account of this sale was not certified by the auctioneers, neither the deposit-money paid by the respective purchasers stated; that advertisements were charged for, but no paper accompanied the account to show where the advertisements were inserted. In answer to that, I may state that the account was signed by the surveyor-general; as to the deposit-money being shown, that was notified soon after the sale took place, and it was unnecessary when the whole proceeds of the sale were accounted for. Bills for advertisements are produced, and the account itself in which the monies paid to the bankers appear, bears Mr. Bertolacci's signature, so that he must have known that the money had been paid into the bank.

1444. Mr. *Coningham.*] At what date was that signature affixed to it?—The 13th of June 1855.

1445. When was the statement of the 50 *l.* error made?—It appeared on the account; it was in September 1854, that Mr. Bertolacci was examining the account in which the error of 50 *l.* was corrected. Mr. Bertolacci says, that I stated that I discovered the error by comparing my book with the banker's book. As no portion of the money arising from this sale of timber ever passed through

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through my hands or appeared in my books, that is not possible. It is no portion of the money that I received as deputy to the receiver-general.

1446. *Chairman.*] What was the custom with regard to the payment into the bank of sums received by you as deputy to the receiver-general; were the gross sums paid in, or were the balances only paid in?—The balances only were paid in.

1447. What is the amount that you receive for the receiver-general upon an average of years?—I think that the net payment is about 20,000 *l.* The rents that I have to collect amount to from 23,000 *l.* to 24,000 *l.*

1448. And the sum which you pay into the bank in the name of the receiver-general is the net sum after certain deductions?—Yes, just so.

1449. Will you state what the nature of those deductions is?—Property tax allowed to the tenants, and a few salaries and small stipends, most of them under 10 *l.* each.

1450. Is that practice still pursued?—It is.

1451. Has it always been pursued by you since you have held the office?—Yes, always, and by my predecessors.

1452. Does the gross sum received appear in the return to Parliament?—Not the gross sum received; the gross sum in charge, less the arrear, shows the gross sum received.

1453. Does the return to Parliament show what is the total sum for rents which should be received by the receiver-general?—It does.

1454. Does it show in detail all those deductions of which you have been speaking?—The returns to Parliament do not; the receiver-general's account does.

1455. Will you turn to No. 536. Do you remember your postponing the making up of the account for 1854, in consequence of not having the account for 1853, which was in the possession of Mr. Bertolacci?—I do.

1456. You heard the evidence which was given upon that subject. Have you any information to give to the Committee with reference to it?—I think I should first explain what is meant by closing the account. On a certain day a line is drawn, and no receipt or payment after that day is suffered to go into the account. All rents unpaid on that day are returned as in arrear; but the account then has to be made up in part, and the account for 1854 had wholly to be made up. Mr. Bertolacci not returning the account for 1853, gave great additional trouble in making up the account for 1854; but when I found that I could not get the account for 1853, I set to, and made up the account for 1854. I may remark, that the first two items on the account for 1854 were the balance and arrear of that for 1853, which had not been confirmed by the audit of the account for 1853, and therefore had any error appeared in the account for 1853 it would have had to be corrected all through the account for 1854.

1457. Mr. *Coningham.*] Was the cash account then no check upon the correctness of the account?—Yes. I kept for my own satisfaction, but I have not required the use of it, a journal; that journal was my own, and I retained it to show that my accounts were perfectly straight, in case in future any question should be raised upon them. That confirmed the correctness of those rentals which I furnished to the receiver-general. The totals received, if my journal was right, being the exact totals appearing on the credit side of my journal; but the journal belonged to me, not to the duchy. I was not required to keep a journal for the duchy, and I did not do so. I had two sets of accounts to make up independently of the journal.

1458. *Chairman.*] Is your understanding of the words "closing an account" the drawing a line and determining that all payments or receipts subsequent to the date when that line is drawn shall not be included in that account?—It is; and not only all those, but some prior to that date, as pertaining to the account for the following year.

1459. Do you understand by the words, "closing an account," the striking a balance, and carrying that balance forward?—I do; but the balance had to be calculated, because there were certain receipts and payments excluded from the receiver-general's account, to be included in the account for the subsequent year, a difficulty which is obviated by closing the account on a certain day; and then the balance in the bankers' hand is the balance on the receiver-general's account exactly.

1460. Viscount *Goderich.*] Are the Committee to understand that when you stated to Mr. Bertolacci that the account for 1854 closed on the 22d of February 1855,

1855, the balance of that account had been struck and calculated at that time, or that a line, such as you have described, had been drawn across the account?—No receipts or payments subsequent to that should be included; but no account had then been made up; the account had then to be made up; and the balance on that account should be the balance in the bankers hands, plus or minus the difference between receipts not included, and payments not included.

1461. *Chairman.*] I understand you that you do not agree with Mr. Bertolacci, who, in answer to a question put by the Chairman, says that what he understands by closing an account is striking a balance, and carrying that balance forward to the next account?—Not exactly; it is subject to the modification that I have named; it is partially so.

1462. Lord *Harry Vane.*] Is not closing the account striking the balance, and also drawing a line at the same time?—Of course it is so.

1463. The two together comprehend what is meant by closing the account, do they not?—They do.

1464. Viscount *Goderich.*] Did Mr. Bertolacci write to you on the 13th of July 1855 the letter which is given in answer to Question 617?—I have no doubt he did.

1465. Did you return it to him with the words therein stated written upon it by you?—I have no doubt that I did.

1466. Will you explain to the Committee what you meant by those words in reference to the account of 1854?—Merely fixing a day on which a line should be drawn and the balance struck; but the balance on the receiver-general's account could not be exactly the balance in the banker's hands for the reason that I have stated, that the bankers had made receipts and payments between the 29th of September and the 18th of February which were not included in the balance.

1467. Do you intend to imply by that which you wrote at the foot of the letter to which I have referred, that the accounts for 1854 were, on the 22d of February 1855, in such a state that they might be handed over to Mr. Bertolacci for the purpose of audit?—Certainly not; the account was not commenced.

1468. Mr. *Coningham.*] What connexion was there between the balance at the bankers' and the returns which were laid before Parliament?—In the case of the balance in the returns which were laid before Parliament, it was the balance on the receiver-general's account, whatever it might be, and that is shown by the account which I have produced. The balance in the bankers' hands was that balance, plus receipts by them, and not included in the receiver-general's account, minus payments made by them, and not included in the receiver-general's account. The draft account was not completed till the 7th of April.

1469. Viscount *Goderich.*] Do you consider that if Lord Harrowby alleged as one of the grounds of his determination to displace Mr. Bertolacci that he had prevented the receiver-general from rendering his accounts for the period from 30th September 1853 to 29th September 1854, that allegation was inconsistent with the information which you state you furnished to Mr. Bertolacci in reply to his letter of the 13th of July 1855?—Not at all so, because the first and second items on the account for 1854 were the balance and arrears of 1853, and until those were established it was of little use making out a subsequent account; it was done, but it was dependent upon the correctness of the account for 1853.

1470. Mr. *Coningham.*] Did you not state that you had, as deputy to the receiver-general, a private journal, from which you could make out the account for 1854?—It could have been made out partially from the rentals; but my journal only related to the receipts and payments made by myself; the receiver-general's account is composed from a great many other sources.

1471. Did not I understand you to say that, as deputy to the receiver-general, you possessed a private journal, from which you could make out the account for 1854?—No, I did not say so.

1472. *Chairman.*] You spoke of a journal which enabled you to correct your accounts; what did that journal contain?—The receipts and payments made by myself as deputy, and it was an account between my principal and myself only.

1473. Were there, then, many payments and receipts relating to the duchy which did not enter into that journal?—A great many.

Veneris, 17° *die Julii*, 1857.

MEMBERS PRESENT:

Mr. Bramston.	Viscount Goderich.
Mr. Coningham.	Mr. J. Hans Hamilton.
Mr. Sotheron Estcourt.	Lord Harry Vane.

T. H. S. SOTHERON ESTCOURT, Esq., IN THE CHAIR.

Frederick Dawes Danvers, Esq., called in; and further Examined.

F. D. Danvers, Esq.

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1474. *Chairman.*] ARE there any points in the evidence that you have given before the Committee in which you wish to make any emendations?—Yes.

1475. Will you mention the number of the question?—At No. 981 I stated, in answer to a question you put, that I thought my account of contingent disbursements was a sort of running account. Now I thought that the question put to me was meant to apply to the sums issued by the receiver-general for contingent disbursements, and that the question applied more to the receiver-general's account. It was so far a running account, that the sums were issued from time to time by the receiver-general, and as regards his account it was a running account. But my own account of contingent disbursements was not a running account, inasmuch as it was balanced from time to time, whenever the sums issued to me had been expended. Then at No. 1178, you ask me, "If that room had been assigned to Mr. Bertolacci, would there have been a waiting-room into which persons coming to transact business could be shown?" Now in the answer I gave, I supposed that you meant the waiting-room by "that room," but I see the last room mentioned was the solicitor's room. Now if you meant the waiting-room, my answer would be as I have given it. At No. 1180, in answer to a question put by the Chairman, "Why did not he," meaning Mr. Lockhart, "appoint a deputy to perform his office for him?" I replied "That is a question that I really cannot answer. I am not sure that he did not appoint some gentleman in the office; I rather think he did appoint one;" and then it flashed across my memory that I was once appointed by him to audit the accounts; and I have since referred, and I find that in 1843, upon the occasion of his, Mr. Lockhart's, going abroad for some months for his health, he did appoint me his deputy, which is recorded in a minute which I will read. "Copy of Council Minute, dated the 24th day of August 1843. Deputation from J. G. Lockhart, Esq., the auditor, to F. D. Danvers, Esq. In consequence of the contemplated absence from England of John Gibson Lockhart, Esq., the auditor, for a period of about two months, an authority from him to Frederick Dawes Danvers, Esquire, to act as his lawful deputy during the will and pleasure of the auditor is laid before the Court, the same containing a proviso that the said Frederick Dawes Danvers shall not audit or examine, and pass any account or accounts of money which may come to his own hands for Her Majesty's use, or with which he may in any manner whatever be otherwise connected as an accountant; whereupon the Court approves of the said deputation. (signed) *G. C. H. Somerset.*" That was never revoked, so when Mr. Lockhart went out of England again for his health in the year 1853, it remained as an authority for me to act for him in some cases, but not in cases in which I myself was an accountant, and he then appointed the solicitor of the duchy to audit such accounts as related to monies which I should have to account for to the council.

1476. Mr. *Coningham.*] There was no objection raised at that time to the appointment of a deputy?—No, there was no objection made to that appointment; and I rather think, although it does not appear upon the minute, that the then Chancellor had been consulted before the deputation was made.

William Hardy, Esq., called in; and Examined.

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1477. *Chairman.*] WHAT is your office in the Duchy of Lancaster?—I am Clerk of the Records.

1478. Will you turn to Question 282; do you recollect making researches into the records of the duchy, and preparing a paper relating to the process by which grants in fee could be effected?—I do.

1479. What was the result of those researches?—The result of those researches was embodied in a statement which I made in writing, and laid before the clerk of the council, with a request that he would submit it to the auditor, the question having originated with the auditor.

1480. What was the question submitted to you that you were to make inquiry about, and what was the general result?—The first question submitted was as to the period when the practice began for the auditor to sign the bill and certificate for a grant in fee, and to point out the authority for so doing.

1481. What answer did you make?—The answer was that it was not the practice for the auditor to sign the bill, or the certificate; that it appeared that the attorney-general and the clerk of the council usually signed the bill, and that that practice prevailed until a comparatively recent period, in fact till the year 1844, when the signature of the clerk of the council was discontinued, and the auditor's name was directed to be affixed, and it appeared to me that this substitution was in lieu of a proceeding termed a particular, where the auditor had formerly, upon a warrant from, and for the information of, the Chancellor, certified that having seen the surveyor's report, the subject matter, if it was preparatory to a grant in fee, was in accordance with that report; and, if it was for a new lease, the date of the former lease, the term, the name of the lessee, and other particulars of such lease were therein stated for information.

1482. Is that the practice up to the present time, or was it the practice when Mr. Bertolacci was auditor?—I believe it was the practice until the form of auditor's particular was discontinued.

1483. Mr. *Coningham*]. Was it changed during the period that Mr. Bertolacci was auditor?—During that period I believe there was some slight modification of the former mode of signing, but what it was I am not prepared to say.

1484. Did Mr. Bertolacci sign the bill as auditor, under the regulation of 1844?—Under the regulation of 1844 I believe the auditor affixed his signature to the bill.

1485. After that was there not a change made by which Mr. Bertolacci did not sign it?—As to the present practice, I really am not in a position to know.

1486. *Chairman.*] What was the next question submitted to you?—The next question was, "In what respect, if any, does the duchy court differ from the court of the Chancellor and council?" I did not rightly apprehend the effect of this question, because the duchy court and the court of the Chancellor and council seemed to be mere conventional terms. I understand it to be simply one court, the court of duchy chamber, a court of equity; and the court of revenue for the management of the duchy estates: this management is vested in what would be technically called a court, being in the breast of the Chancellor, with such advice as he may think it proper at any and all times to call to his assistance. The court for the management of the duchy was of course co-existent with the duchy court as a court of equity, from the nature of the circumstances; when there were peculiar estates to be managed, there must have been a peculiar court.

1487. What was the answer you made?—That those two courts, the court of the Chancellor and council, as Mr. Bertolacci termed it, and the duchy court, were in their origin and constitution the same, and differed only in their functions and use; that both originated at the institution of the duchy. But I should say, that the duchy court as a court of equity, had its germ anterior to the settlement of the duchy as a distinct estate from the Crown, because the Dukes of Lancaster had their Chancellors also, to whom they confided the management of their possessions in the same way in the reign of Edward the Third, before the Duke of Lancaster became King. I then explained what I deemed to be the jurisdiction of the court of equity, that it was "concerned in the remedying of differences arising between party and party, and in affording redress in cases of intrusion upon the rights and franchises, and the liberties of the Sovereign *jure ducatus*," and that it was a court of appeal from

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the vice-chancellor's court of the county palatine of Lancaster. To the court of revenue belonged more particularly and immediately the control in matters where the interests and management of the duchy estates and revenues were affected, and it appeared that the Chancellor had always presided there as in equity, that he was supreme in all matters either of equity or of revenue, and that the term "the Chancellor and Council of the Duchy" was used to express the governing body in regard to the possessions of the Sovereign for the time being *jure ducatus*, in contradistinction to the Treasury, or other department of the Crown revenues, when those estates were referred to as distinct from the estates of the duchy separated from the Crown.

1488. Will you refer to Question 303. In answer to that question, I find these words, "The statement of the clerk of the records shows that to pass bills for the sale of the duchy property, it was necessary, first, that the surveyor should value the property and report on it; secondly, that his valuation and report should be submitted to the auditor; thirdly, that the auditor should pass the surveyor's report and valuation by a particular; fourthly, that that particular then formed the warrant for the bill, and the Acts of Parliament before alluded to invariably use the words 'Chancellor and council,' and give no power over the property to the Chancellor acting singly." Is it your opinion that the statement which you made when you were then referred to proves those inferences as stated in that answer?—I do not think that the statements in that answer are strictly consistent with the facts, nor do I think that such inferences are justified by the statement I made in writing.

1489. Will you point out what inference you drew from your researches into the records with regard to the mode of passing bills for the sale of the duchy property?—That when it became necessary either to dispose of any portion of the estates which came within the powers conferred by the several Acts, the matter was brought to the consideration of the Chancellor, who could alone have determined what course to take, or he might have it discussed in his presence by the council, and whatever was determined to be done the proper officers were instructed; the surveyors were instructed to prepare a valuation, and that valuation was submitted to the council, and, if approved of, the clerk of the council prepared the bill under the instructions of the Chancellor, and the auditor's duty during the existence of the particulars would be to see that the surveyor's report and the bill as prepared accorded, that is to say, that what the surveyor recommended was that which was to be carried into effect.

1490. Was it the result of your researches that the valuation of the surveyor was submitted to the auditor before the bill received the sanction of the Chancellor?—No, that was not the case; the surveyor's report with other documents was laid before the auditor, in order to his making his report, expressed in the particular, of what were the recomendations of the surveyor, to be carried into effect, by the Chancellor giving instructions for a bill to pass the grant.

1491. Was it the result of your researches that the surveyor's report was passed by the auditor by a particular?—It was embodied in a particular.

1492. Was that done before the bill received the sanction of the Chancellor?—It was done as information to the Chancellor.

1493. Is it the result of your researches that the Acts of Parliament using the words "Chancellor and council," give no power over the property to the Chancellor acting singly?—I think the Acts neither restrain nor give power to the Chancellor in acting with or without the council; power is given to dispose of the property, and that in such way as the head of the department for the time being should deem most advantageous. I am not aware of any statute giving such power to any specially constituted body or unchangeable court, other than to the Chancellor, with such counsel as he may call.

1494. Is it the result of your researches that it was the duty of the auditor to ascertain the sufficiency of the valuation of the surveyor-general?—From the result of my investigation on that point, I think it was no part of his duty to ascertain the sufficiency of the valuation; I have never met with any instance at all where the auditor has so interfered, and it would simply be my opinion from that result, that it would not be within his power to question the surveyor's report; that is the result of the opinion which I have formed, seeing the practice.

1495. Mr. *Coningham.*] If, on examination the auditor found there was anything palpably wrong or fraudulent in the particular which was transmitted

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to him, would he be required to pass that particular?—I think that would be a mere matter of opinion, but mine in that respect, if it is worth anything, is, that there would be but one course open to the auditor if he saw anything fraudulent;—if he saw anything that he disapproved of, in point of advantage merely, or as a matter of expediency he might then, perhaps, be permitted to offer his suggestions, but if they were not adopted, his opinion and judgment should yield; but if he saw anything fraudulent I think he would yet have no other course than to sign it, and then he would be justified in relinquishing his office, for his duties would be simply as a ministerial officer to sign that which he was called upon by the Chancellor to do; but if he saw anything fraudulent, of course it would be improper for him to be a party to the fraud under any circumstances, and to hold an office that would oblige him to be so.

1496. Do you not think that by that signature he would render himself a party to the transaction?—No, I think not in any way; he would simply sign as vouching for the agreement of two things, that that is what he found to be the surveyor's report; he would have nothing to do with either the honesty of the surveyor's report, nor with the transaction in any other way; in fact the auditor is simply a ministerial officer, except when auditing the accounts.

1497. *Chairman.*] That is the result of your researches?—That is the result of my researches *qua* auditor.

1498. Mr. *Coningham.*] What then was the object of the auditor's particular?—The auditor's particular was to give information, and was one of the various channels through which those grants had to pass; that was one of the channels necessary for the information of the Chancellor; the surveyor makes his report, in pursuance of instructions from the Chancellor, and that report is embodied by the auditor in the form of the particular by the Chancellor's warrant, and for the information of the Chancellor; and it is the certificate ultimately to proceed upon.

1499. *Chairman.*] An analogy has been mentioned in the course of the evidence before the Committee to exist between acts done by the Queen in Council and the Chancellor in council; is it the result of your investigations into the records of the duchy that such an analogy exists?—I could scarcely say how that would apply, because I am not conversant with the transactions or duties of the office of the Privy Council.

1500. It is stated that the Queen can do no act without the sanction of her Council; it is inferred, therefore, from the analogy, if it exists, that the Chancellor of the Duchy of Lancaster can do nothing without the sanction of his council; is the result of your investigations into the records of the duchy that such is a true inference?—I should say not at all; but that the Chancellor can act without the advice of his council.

1501. Mr. *Coningham.*] You state that as the result of your researches you came to the conclusion that the Chancellor could act singly and absolutely; can you state upon what Acts or charters, or upon what legal authority that opinion was based?—The only Acts, that I am aware of, that apply at all to the duchy (not of course referring to modern Acts, which give powers simply for the disposal of the property; that is another matter) are those which made a settlement of the duchy, viz. the Act of 1st of Henry the Fourth, and subsequent Acts confirming or varying the effect of that Act temporarily, and then afterwards confirming it fully; that is the only statute of which I am aware that applies at all to the management of the duchy, and that affects the management in no other way than this; that having separated the management of those estates which had belonged to the Duke of Lancaster before his accession to the Crown, from the estates which were part and parcel of the possessions of the Crown, it was necessary to provide that there should be a distinct management for those estates, separate from the management of the other estates; and it simply says in as strict words as possible that there shall be no interference from any other body, but that all the affairs shall be managed by officers specially appointed and deputed for the management of the property, and that the accounts shall be rendered before certain special auditors; that is to say, that those who have the management of the duchy, the Sovereign for the time being, or the Chancellor representing him, shall appoint certain special auditors before whom those accounts are to be rendered, and that they shall not be rendered before the officers of the Treasury; but there is nothing affecting the management of the duchy in its details; nor any statute of any kind whatever applicable to the mode in which such management shall be conducted.

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1502. Then you have not discovered anything giving absolute power to the Chancellor?—The absolute power of the Chancellor is shown in many ways; a great many of the acts that are done, although recorded as being done by the Chancellor and council, can be shown, in fact, to have been done by the Chancellor alone; when a lease is made, it is stated to be made by and with the advice and consent of the Chancellor and council, but there is evidence that the Chancellor alone was concerned in passing the warrants and authority for such lease; and there is no evidence of a council necessarily acting with him as a controlling body.

1503. *Chairman.*] Is there any other remark that you wish to address to the Committee?—As I have had the opportunity of knowing, as a colleague, for more than a quarter of a century a gentleman to whom has been attributed indecorous behaviour towards Mr. Bertolacci, I should beg to say, from my intimate acquaintance with that gentleman for a great number of years, that I think it perfectly impossible that he could have been guilty of anything at all approaching such conduct as that which has been ascribed to him; it is quite contrary to his character and disposition.

1504. Mr. *J. Hans Hamilton.*] What is your salary as clerk of the records?—My salary as clerk of the records is 360 *l.* a year.

Joseph Henry Gooch, Esq., called in; further Examined.

J. H. Gooch, Esq.

1505. *Chairman.*] WILL you turn to Question 692; it is there stated that when Mr. Bertolacci desired to introduce a deputy to assist him in the work of auditing, he introduced Mr. Coleman to you as the deputy of the receiver-general, and he told you that he was the gentleman whom he had selected; and at the same time acquainted you that he should reserve to himself the power of looking to the minutes, and should place in his deputy's hands merely those matters which related to the accounts, and that you opposed him in the exercise of this privilege?—I did; I said that I could not allow any one to see the duchy books without the authority of Lord Harrowby.

1506. Did Mr. Bertolacci point to his patent as the authority under which he was acting?—He did.

1507. Did you decline to furnish him with any information, or to place any of your accounts before either Mr. Bertolacci or his deputy?—I did.

1508. On what ground did you do so?—I could not feel justified in producing the accounts to a gentleman introduced in that way; there was no appointment of a deputy; no acceptance of such a deputy; and I should have felt I had done exceedingly wrong to allow any one, merely brought into the office in the way Mr. Coleman was, to see any of the duchy books.

1509. Had you not upon former occasions had occasion to act with the deputy of the auditor?—I had.

1510. What was the difference between the deputy upon those former occasions and Mr. Coleman, as introduced by Mr. Bertolacci?—Mr. Danvers and Mr. Walford, the duchy solicitor, were the deputies upon the former occasions, and there were regular deputations executed by Mr. Lockhart, and enrolled in the duchy books.

1511. Were those former deputies sanctioned by a minute of the council?—One certainly was, Mr. Danvers.

1512. Mr. *Coningham.*] Do you recognise the authority of the Queen by letters patent?—Certainly.

1513. Does Mr. Bertolacci's patent require any stronger evidence than itself?—No.

1514. Do you think that in order to exercise the power of appointing a deputy which is granted by the patent, it is necessary that that appointment should be made by a regular deputation?—Or that it should receive the sanction in some way of the Chancellor of the duchy.

1515. *Chairman.*] Will you look to the answer to 697; it is there stated, that on Monday the 2d of July 1855 you treated Mr. Bertolacci in an offensive manner and domineering tone of voice during the whole of his examination of the duchy accounts; have you any statement to make to the Committee upon that subject?—I have. When Mr. Bertolacci was examining the accounts in the month of September 1854, I gave him every assistance in my power; I was anxious to help him, and he seemed satisfied with the service I rendered. Some time after that I found that the explanations I had given him (and certainly I have pursued the same course with the present auditor) were reported to

Lord

Lord Granville as the freedom with which I had thought fit to criticise his mode of examining the accounts. I was not aware that he was in the slightest degree offended, but I thought that he felt rather, if I may use the term, gratified. When he returned to the office again, I still gave him assistance, but I did not venture again to offer that assistance which had been so unacceptable; as to treating him in a domineering way, as to throwing difficulties in the way of his auditing, or behaving ill in order to annoy and deter him from examining the accounts, I was most anxious that the accounts should be examined. I had the prospect then before me of staying at the office every evening to suit Mr. Bertolacci's convenience for the whole of the summer. I may perhaps be permitted to read a memorandum somewhat resembling the one which I drew up at the time Mr. Bertolacci made his complaint to the Chancellor: "With the exception of two days in Whitsun week and the six days I was engaged in holding the audits in the country, I held my time (after the conclusion of my regular day's work in the duchy office), from the 26th of May to the 2d of July, at the entire disposal of Mr. Bertolacci, and that without any positive orders so to do;" I had not received any positive orders about it; I have no doubt Lord Harrowby concluded I should do so; "but simply from a conviction of the necessity for the accounts being audited without delay, and that I could afford Mr. Bertolacci more efficient assistance than any one else in the office; at the end of this time Mr. Bertolacci apparently had not examined four pages of the receiver-general's account for 1853;" and there was all the rest of that to finish, and the whole of 1854; "I found the same questions put to me as had been put over and over again, evidencing an utter disregard, if not an ignorance, of the principle upon which the account was kept, and in pointing out where Mr. Bertolacci would find what he sought; I slapped my hand upon that part of the page of the book in which the item appeared" (which book I may observe Mr. Bertolacci says was 'before him,' but he was sitting at one desk and the book was lying on another, and he had to get up from his seat to go and look at the book I had slapped so offensively, so it is somewhat of an exaggeration to say that I slapped the book before him,) "and indignant at being told not to forget myself by Mr. Bertolacci, for whose advantage I had gratuitously given up my time, I replied in terms too closely resembling, at any rate, those in Mr. Bertolacci's memorandum, to justify my questioning their verbal accuracy. As regards the 'civility and politeness,' for which Mr. Bertolacci takes credit to himself, and the 'offensive manner and domineering tone of voice,' which I am stated to have assumed, I beg to observe that Mr. Bertolacci's civility and politenness consisted in addressing his inquiries in such a tone as any one would adopt in detecting the person he addressed in a falsehood." I may be perhaps permitted to draw attention to the fact that Mr. Bertolacci, when he was under the impression that I had made use of Lord Granville's name to cover my irregularities, instead of applying to my principal, who would have been the loser by any dishonesty on my part, went to a gentleman in another department to ask him whether there was likely to be any truth in what I said, and at the very time too he was receiving every assistance from me apparently with satisfaction; in his petition he does not say, what he knows very well, that it was a fact, but that he afterwards discovered there was some ground for what I stated.

1516. Mr. *Coningham.*] You were not aware of that application until it was stated in the petition?—I was not, but I mention that as showing the course Mr. Bertolacci pursued, which is not very likely to produce the civility and politeness he pretends to. "Indeed, I have frequently had to subdue my feelings when replying to Mr. Bertolacci's observations; perhaps I may be permitted to quote the remark volunteered by two of my colleagues, who happen to have been detained occasionally at the office during the time I have been in attendance upon Mr. Bertolacci, namely, that they had often wondered at the patience I have shown in assisting Mr. Bertolacci, and who have also made remarks upon Mr. Bertolacci's manner. What my offensive manner and domineering can mean I am at a loss to conceive, unless Mr. Bertolacci considers that my refusing first to produce the account books of the duchy to a stranger, and then to hand them to him, that he might show them to that stranger, be considered offensive and domineering. Whether such be the case or not, I am quite content with the Chancellor's approval of my conduct on that occasion." It is further stated, that I used to go and sit upon the table where he was auditing the accounts, and used to throw myself into attitudes to annoy him. I deny that I did anything of the sort. On the adjoining desk I may perhaps have put my feet up on the ledges,

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ledges, but I have done nothing of the conduct imputed to me, and as to doing it in the expectation that it would drive Mr. Bertolacci from an attentive examination of the accounts, it never would have entered my head that Mr. Bertolacci would be deterred from doing his duty by any such behaviour on my part. I should not have done him the injustice to suppose that he would. I beg also to add, that nothing that General Fox ever said to me would have justified me in pursuing such a course. Mr. Bertolacci is pleased to say, no wonder I behaved so when General Fox had spoken of him in the terms alluded to the other day. If Mr. Bertolacci had been my own brother, I could not have been more anxious to assist him when he first took the accounts.

1517. What was the nature of General Fox's directions to you about your conduct to Mr. Bertolacci?—I never had any directions; I did my duty without asking General Fox what I was to do, and General Fox never had to interfere with me.

Frederick Dawes Danvers, Esq.; further Examined.

F. D. Danvers, Esq.

1518. *Chairman.*] YOU put in at the former meeting of the Committee a paper which is in the Appendix, No. 9.?—Yes.

1519. Does that paper represent the sums that were actually received or not?—No, it really represents the rents actually accruing from those mines during that period.

1520. Then under the head of "Duchy of Lansaster rents received from the Newcastle-under-Lyne mines for 10 years from Michaelmas 1846, to Michaelmas 1856," what alteration is necessary in order to make that correspond with the fact?—It would be sufficient to leave out the word "received," the object being merely to show the actual produce of the mines; the only object of putting in this paper was to show the great increase of revenue derivable from the property.

Joseph Henry Gooch, Esq.; further Examined.

J. H. Gooch, Esq.

1521. *Chairman.*] ARE there any further points to which you wish to direct the attention of the Committee?—Mr. Bertolacci states in his evidence that he detected errors in the account for 1853; as that account was afterwards audited by his successor, and there were no errors found in it, perhaps Mr. Bertolacci will be good enough to state to what he alluded.

1522. *Chairman* (to Mr. *Bertolacci*).] To what did you refer in your letter to Lord Granville when you spoke of the error that you had detected in the account of 1853?—I referred to the 50*l.* affecting the balance of the account of 1852, and brought into the account of 1853.

1523. Is that the only error to which you referred at that time?—Yes.*

1524. (To Mr. *Gooch.*) Will you proceed with any statement you have to make to the Committee?—At 462, in answer to the question, "Did you then test the balance of 7,673 *l.* 6 *s.* 1¾ *d.* brought forward from the account of 1852 to that of 1853 which you were then examining?" Mr. Bertolacci says, "I tried to do so, but from the defective system of accounts kept in the duchy, or rather by the deputy of the receiver-general, I could not ascertain of what sums the amounts outstanding was composed; I therefore asked the deputy of the receiver-general to state on a piece of paper the sums of which the balance of 7,673 *l.* 6 *s.* 1¾ *d.* consisted, but although he tried to do so, he could not give me an account of the sums of which the balance outstanding was formed, and at the end of the day I left the office without his giving me any such statement." Now I never attempted to explain of what items the balance of the account was composed; the difference between the receipts and payments forms the balance of the account; no particular items on that account.

1525. Were you then asked by Mr. Bertolacci to state on a piece of paper any account of that balance of 7,673 *l.* which was brought from the account of 1852?—I remember his asking me to explain the balance, and I offered him a calculation to test it, drawn up in the way I have explained to the Committee, viz. by adding receipts not included, and deducting payments not included, but it was impossible to show what the balance was made up of.

1526. What

* This is not an error in the answer for 1853, but the correction of an error which had been made in the previous account.—*J. H. G.*

1526. What is the mode of keeping the accounts in the duchy?—The receiver-general is charged with the balance of his preceding account; the arrears outstanding on the closing of his preceding account; all rents falling due within the year ended Michaelmas; dividends on Consols, and other revenue arising periodically and falling due within the same period; fines on renewals of leases; moneys arising by sales of timber, underwood, and bark, made prior to Michaelmas, and realised up to the day of closing the account, now the 21st of December; manorial profits accounted for by the stewards of the manors; balances paid over by the particular receivers; and moneys arising from escheats and other receipts, not of an extraordinary nature. The receiver-general is allowed or discharged in respect of all salaries, pensions, and stipends, payable within the year ended Michaelmas if actually paid by the day of closing the account; and all other payments made up to the day of closing the account now. Authorities for the payments, and vouchers are in all cases produced, and the vouchers are marked by the auditor, so that they cannot be produced a second time. The receiver-general is also allowed the arrears outstanding on closing the account, which, with the balance of his account, form the first and second items in the charge of his account for the succeeding year. The particulars of the arrears are always stated at the end of the receiver-general's account; the names of the parties in arrear, and the amount of their arrears, except in the case of small manorial rents and chief rents. No larger balance, I should observe, is ever retained in the receiver-general's hands than is necessary to meet the outgoings before other moneys will accrue; and it is of no use investing the balance, as Consols are closed when the balance is struck; and a payment has to be made over to the Privy Purse before any dividend can accrue by a subsequent investment. Mr. Bertolacci advances the Commisariat rules of witnessing vouchers; I submit that they in no way apply to the Duchy of Lancaster.

1527. Mr. Bertolacci, in the letter to Mr. Stronge, says that he "found it impossible to examine the accounts and audit the accounts in consequence of the blending of former balances, and the arrears of rent with the balances and arrears of succeeding years, whilst the cash received and paid in each year has been carried to the debit or credit of the past and current, and also of the following year, to that to which the account was rendered; without any separate cash account of receipts and payments having been made," and so on; will you point out the mode of keeping accounts as you now put them in, whether that did take place, or whether there was anything to prevent its taking place?—This is the first account which was furnished to Mr. Bertolacci, the accounts of 1853 *(producing the same)* in which everything is charged which should have been charged, and the balance is the amount of that charge, less the various payments and the outstanding arrears; so that the difference between the charge and the arrear must have been received within the period of the account in cash.

1528. Does the balance which you are now looking at in the account of 1853 contain the balance which was carried on from the former year?—It does.

1529. It is entered as the first item?—"The accountant is charged with the balance due upon the declaration of his last account."

1530. Is not that the ordinary mode in which balances in an account running on from year to year are carried forward?—Yes, I should say so; it is the mode in which the accounts are still kept; we balance to a penny.

1531. Was there a debit and credit account of each year kept separately?—Only as regards the rentals and my own private ledger or journal, of which I have already spoken; there was no official ledger or journal kept.

1532. Lord *Harry Vane.*] Not a debit and credit?—Not a debit and credit.

1533. *Chairman.*] Supposing the Chancellor at any time had desired to investigate your accounts himself personally, in what manner would he have known the exact amount of all the sums received, or of all the sums paid in the course of any 12 months?—I should have shown him my accounts in the first instance, and the rentals in the duchy office and the bankers' book. In the bankers' book appear all the payments which I make in discharge of the rents I have to collect.

1534. Are there other receivers of rents besides you?—A few rents are paid to Messrs. Coutts & Co., and there is a particular receiver still in the county of Derby, at the High Peak.

1535. Is there any person authorised to receive rents besides yourself, Messrs. Coutts & Co., and this particular receiver in the county of Derby?—The

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stewards of manors are authorised to receive quitrents, and some local agents are employed to collect small weekly cottage rents, &c., but nothing beyond that.

1536. To whom do they pay over those quitrents?—In some instances to myself, in some to Messrs. Coutts & Co.; if they arise within the counties over which I have the collection of the rents, they pay over the amounts to me; if otherwise, to Messrs. Coutts & Co. direct.

1537. Then in fact, as I put the question just now, the final receivers of the rents of the duchy are either yourself or Messrs. Coutts & Co., or the receiver in the county of Derby?—Yes, the receiver in the county of Derby paying over his net balance to the receiver-general.

1538. Therefore are the Committee to understand that your book and the book of Messrs. Coutts & Co. will include every receipt of every kind within the year?—Yes.

1539. In what manner was the auditor before Mr. Bertolacci's time able to check your statement of all the receipts?—By taking a book called the "State of Revenue," in which the names of all the tenants are stated, the premises they hold, and the rents they pay; he tested the receiver-general's account by that.

1540. Do you mean that he charged against the Receiver-general all the rents that were due?—He did.

1541. In what manner could he ascertain what amount of rents had been received in discharge?—By seeing what were outstanding, and the rest had been received.

1542. How could he know what was outstanding?—By the production of those rentals, and if any rent appeared to him to be outstanding which he thought ought to have been received, he would make a representation, I presume (it never has occurred), to the court, and an inquiry would be made into the circumstances, and I should then have to say why it was that I had not received it.

1543. Supposing no intercourse to pass between yourself and the auditor, whether Mr. Bertolacci or any one else, do you think that those books you have now mentioned would enable him to make out a complete audit?—Most assuredly; if he understood his duties, most perfectly, he would of course refer to all vouchers, which must be placed before him in due order.

1544. Was the operation of making an annual audit to the duchy a long and troublesome work?—The accounts were drawn up so as to give the auditor as little trouble as possible, and it was not a very long operation.

1545. About how many items form the account on one side or on the other?—Many hundreds; in most cases they had been tested before, so that it was only where an alteration took place in the rent that it was necessary to look to the authority for the alteration.

1546. Mr. *J. Hans Hamilton.*] Are those rents paid yearly or half yearly?—Some yearly and some half yearly.

1547. Lord *Harry Vane.*] It was only on Mr. Lockhart's ill-health that the examination of the accounts fell into arrear?—Certainly.

1548. *Chairman.*] Did Mr. Bertolacci call upon you to furnish him with a debtor and creditor account of the cash received and paid within the year?—He did.

1549. Did you furnish him with such an account?—I did.

1550. When did you furnish it to him?—On the 24th of January 1855, I think it was. I may perhaps be permitted to read a memorandum which I have made of what passed at the time. "Mr. Bertolacci suspended the examination of the receiver-general's account for 1853 on 30th September 1854, and did not resume it till the month of June 1855. On the 2d of November 1854, the draft account for 1853 was sent to him at his own request. On the 21st of December Mr. Bertolacci requested to be informed when the receiver-general's account for 1854 was ready for examination. Upon being reminded that he had not completed the examination of the account for 1853, and requested to return the draft to the office, Mr. Bertolacci wrote that he was at a loss to understand why Mr. Gooch could not render an account of the sums received in the year ended 29th of September 1854, without the accounts of 1853, and Mr. Bertolacci desired to be furnished with a debtor and creditor account of receipts and payments, from the 30th of September 1853 to 29th of September 1854," "without reference to any other account to be made out." I could have made out the debtor and creditor account, and did do so, but

but it was totally different to the account he applied for in the first instance. It was a totally distinct account; upon his applying for the receiver-general's account for 1854, he was reminded that he had not completed the account of 1853. "It may be observed that the account to which Mr. Bertolacci referred in his first letter of 21st December, was totally different to the debtor and creditor with which he for the first time desired to be furnished, after he had been reminded that he had not completed the examination of the receiver-general's account for 1853, and that had Mr. Bertolacci on the 1st of October ordered such debtor and creditor account to be prepared, it would then have been commenced immediately. On the 23d of December it was suggested that such a debtor and creditor account would be of little use, and he was reminded that the auditing of the receiver-general's account for 1853 had to be completed, the receiver-general's account for 1854 had to be prepared and audited, and the accounts of receipts and expenditure (for Parliament) had to be made out, examined, and copied by the expiration of one month from the day of the meeting of Parliament after the 1st of January, and of the little time there was then left for the work; and that he had the preceding September frequently been requested to signify in what manner he wished to have the receiver-general's account prepared." Now, as Mr. Bertolacci seems under the impression that he was requested to suggest a form of account for the return to Parliament, I beg to say that it was the receiver-general's account, and not the return to Parliament. The form must be approved of by the Treasury for the returns to Parliament, but the receiver general's account may be made out in such form as is approved of by the duchy officers. "Mr. Bertolacci, however, persisted in desiring to be furnished with such account, and stated that he would attend at the duchy office to examine it. It was sent to him on the 24th of January, but he did not attend to examine the debtor and creditor account; and after being furnished with it he (on the 6th of February) alleged that, 'for purposes of check,' he wished to examine the accounts for 1853 and 1854 simultaneously."

1551. Mr. *Coningham.*] Was not the account Mr. Bertolacci asked for, the cash account of receipts and payments from September 1853 to September 1854?—The account he applied for, after being reminded that he had not audited the account for 1853, but that was not the account he applied for previously to being reminded of that. I may say, that at the time Mr. Bertolacci was auditing the accounts in 1854, he had access to every minute and enrolment he would require. I was not aware of there being any restriction, and I should not have dared to have told him whether any minute he asked for was required for the performance of his duty, so that he had access to the minutes practically as freely as he ever had after the 20th of November. Indeed, not only were the minute-books produced, but he required to see every minute signed by the Chancellor himself.

1552. Viscount *Goderich.*] It is stated, in answer to Question 725, that it will be shown by the accounts laid before Parliament, that since the determination evinced by Mr. Bertolacci to make inquiry into the past transactions of the duchy, the payments to Her Majesty's Privy Purse have increased. Is that so?—It is so as regards the date, but not from that cause; the cause is that the revenue has improved; that the rules laid down at the time of Her Majesty's accession for discontinuing the practice of taking fines are now coming into beneficial operation, so that the revenue improves by that; for some years it was very much kept down by that; where we had been in the habit of renewing leases upon fines, of course rents were below the value of the property, the fine being a calculation on the difference between the annual value and the rent; as the leases expired then the rack-rent system came into operation.

1553. You attribute it to that?—Yes.

1554. Lord *Harry Vane.*] Is not the principal increase that is apparent on the receipts, derivable from the increased value of the mines?—I should think as much as any probably; that is certainly one very important reason.

1555. Does not this amount which appears in this paper, purport to give the rents of the Newcastle-under-Lyne mines for 10 years, from Michaelmas 1846 to Michaelmas 1856?—Yes, it does.

1556. Is not this a correct statement of the rents?—Yes, it is.

1557. Does not it appear from this statement that there has been a gradual increase of rents from the year 1847 to the year 1856?—It does appear so.

1558. Does not it appear also that the large increase has been derived since the beginning of the year 1853?—It does.

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1559. Can you state the increase derivable from other sources, independent of the increase derivable from the Newcastle-under-Lyne mines?—I cannot without making a calculation of it.

1560. Have you any papers which give you the means of stating how much upon the gross amount that increase has been?—I could ascertain that easily.

1561. Have you any paper with you at this time which will furnish you with such means?—The rental in 1852 was in round numbers 25,000 *l.*, and in 1853 nearly 28,000 *l.*; that includes the mines.

1562. Can you put in a statement showing the total increase, and showing the increase derivable from other sources of revenue, independent of the revenue derived from the mines of Newcastle-under-Lyne, from 1847 to 1856?—I will put in such a paper.

1563. Mr. *Coningham.*] You have spoken of drawing a line to close the receiver-general's account; on what document was that line drawn?—It was in the bankers' book that the line was drawn, I having balanced all my accounts up previously.

1564. Does the account, which you say you closed by drawing a line, show all the receipts and payments of the duchy during the period for which the yearly account was rendered to the auditor?—Not all the receipts and payments; the rentals, &c., must be referred to.

1565. You said on a former day that you had to calculate the balance of the account, what account is it on which you calculate the balance to be shown?—I test the balance, I do not calculate it.

1566. Then supposing that you should make an error in the figures in the calculation of the balance, would that error be shown on the account?—The calculation is made to test the correctness of the receiver-general's balance; it is not likely that one error would set another right, therefore I cannot understand your question.

1567. Was the drawing of the line the striking of the balance?—The drawing of the line was, as I stated the other day, fixing a day beyond which no receipts or payments should be included.

1568. Then, if I understand rightly, the accounts were closed and the balance struck on the 22d of February?—Certainly.

1569. You have stated that the accounts of the receiver-general to the 29th of September 1852, were declared in May 1854; what is the nature of the declaration?—The auditor, the late Mr. Lockhart, audited the account in May 1853; it was then handed over to the clerk who entered the receiver-general's account in the fair book; after that Mr. Lockhart's signature was required to the fair copy as well as to the draft, and until his signature was obtained to the fair copy, the account could not be declared before the Chancellor; but the account was audited in May 1853, and owing to Mr. Lockhart's illness there was a difficulty in getting his signature, and some delay took place in entering it.

1570. Was the error of 50 *l.* shown in the account which was declared in May 1854, which was shown to Mr. Bertolacci in September 1854?—I must beg to observe that Mr. Bertolacci is utterly mistaken in what he says about the draft of the receiver-general's account for 1852 bearing Mr. Lockhart's note of the error having been produced to him for the first time in May 1855; I was too much annoyed at having to exhibit such a blunder as that to a new auditor not to recollect pretty clearly what course I adopted in naming it to him, and I well remember showing this to Mr. Bertolacci in the month of September 1854; of that I am certain; to that I am ready to depose on oath; I have questioned the accuracy of my recollection several times, but I am certain of it; I remember the circumstances, the getting the account to show him.

1571. Was the error of 50 *l.* shown in the account for 1852, which was declared in May 1854, and which was shown to Mr. Bertolacci in September 1854; I allude to the fair copy?—The error was not shown because the account was entered as it was drawn, and there was merely a note made of the error; the error was not alluded to in the body of the account for 1852, which was declared; it was a note on the margin on the account for 1852.

1572. Lord *Harry Vane.*] And that was pointed out by you to Mr. Bertolacci in September 1854?—Yes.

1573. Mr. *Coningham.*] Did that marginal note appear in the fair copy of the account?—No, there would have been no occasion to show the draft if it had.

1574. *Chairman.*] In the account of the following year the error was plainly exhibited?—Yes.

1575. Mr.

1575. Mr. *Coningham.*] Are there not penknife erasures upon the face of this account?—Very probably; if a mistake was made, it must be set right; as that was done by a copying clerk, it was exceedingly likely he made a mistake in doing it.

1576. Did you communicate personally with Lord Harrowby on matters of the duchy accounts before the 4th of May 1854, or did you do so through Mr. Danvers or General Fox?—I cannot recollect communicating with Lord Harrowby previously to that.

1577. Had you any communication with Lord Harrowby personally in the month of July or August in the year 1855, upon such matters, or did you communicate with his Lordship through General Fox or Mr. Danvers at that time?—I do not recollect doing so; I had occasionally to speak to his Lordship upon business.

1578. Did you represent to Lord Harrowby at either of those times that the business of the office was impeded by Mr. Bertolacci?—I do not remember doing so, but if his Lordship had asked me, I should certainly have said so.

1579. Can you produce your journal of receipts and payments, which you alluded to in your last day's examination?—I can (*producing the same*).

1580. Can you tell the Committee what salary General Fox receives?—£.878.

1581. Do you know how many years he has received that salary?—I should say from the year 1841 or 1842.

1582. When was the full amount of his salary first shown in the returns to Parliament?—In those for the year 1855.

1583. What is the date of the Act of Parliament which requires returns to be made to Parliament of receipts and disbursements by the duchy?—I think it was the first year of her present Majesty's reign.

1584. Was it not after Mr. Bertolacci pointed out that the Act had not been complied with in this respect, that the amount was inserted in the returns to Parliament?—That was what Mr. Bertolacci stated, I believe, but if you will refer to the returns, I think they are the charges upon the revenue of the duchy, and formerly only so much of the salaries as were paid out of the revenue were stated in the returns to Parliament; Lord Harrowby made an order, that instead of adopting that course the whole salary should be included in the particulars of the returns, and that the produce of the fee fund, which had all along been applied in part payment of those salaries, should be deducted from the total amount of the salaries; that was the change made.

1585. In the return in which the full amount was first shown, was not the term "the accountant," as the person to whom the salary was paid, inserted instead of the name of General Fox in full, as has been the case when the full amount was not shown?—I found that it was so, and it was a clerical error. In drawing the accounts for Parliament the receiver-general's account was handed to the clerk who made the rough draft of these returns, and in the receiver-general's account the receiver-general is called the accountant very properly, but improperly in the returns to Parliament; the error was overlooked, and was near being repeated the following year, but it was found out and corrected.

1586. Viscount *Goderich.*] In what year was the error corrected?—1856.

1587. Mr. *Coningham.*] Was not the account in which this change of designation was made, and by which the name of General Fox was kept from observation, the account audited and signed by Mr. Hawker, who superseded Mr. Bertolacci?—The account was audited and signed by Mr. Hawker; the receiver-general's account was audited by Mr. Hawker, and in that the term "accountant" would properly appear; then the names, &c. were called over to Mr. Hawker before he signed the returns to Parliament, and the error was overlooked by him as well as myself; it is no wonder he should have overlooked it, because he was new to his office. I beg to add that the name was not "kept from observation;" it was entirely a clerical error that the receiver-general was designated in the returns to Parliament as the Accountant.

1588. Was General Fox's name shown as the "accountant" in any part of the return rendered to Parliament in 1855?—I am not aware that his name appears a second time in the account.

1589. Was there any means of ascertaining who the accountant was by the return to Parliament?—By inquiry.

1590. *Chairman.*] Was there on the face of the return any means of ascertaining

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ing that the term "accountant" meant General Fox?—I should say not, taking that individual account; but in former years and in subsequent years the receiver-general's name appears.

1591. Mr. *Coningham.*] Subsequently General Fox's name has been re-inserted?—It has.

1592. Viscount *Goderich.*] Does not the salary of Mr. Danvers, the clerk of the council, appear in those accounts to which the last questions have had reference, in an increased amount?—It does, for the same reason that I have given why only that portion of General Fox's salary which was chargeable on revenue was given, until Lord Harrowby desired the alteration to be made.

1593. With regard to Mr. Danvers, it is entered in these accounts, with his name in full, in the same way as in the previous accounts?—Yes; and General Fox's name should have been the same, but for an oversight; it was purely an oversight; I had the preparing of the account myself, and therefore I can speak positively to that.

1594. Mr. *Coningham.*] Can you produce the book in which the arrear of rental, the total due to Michaelmas 1852, and the amount received, and the arrear is shown?—Yes; this is it (*producing the same*).

1595. Are there not penknife erasures in the sum of 2,742 *l.*?—There are; a wrong sum was filled in.

1596. Is there not another erasure here in the arrears, at the amount of 4,972 *l.* 7 *s.* 8 *d.*, carried forward in 1851?—Yes.

1597. *Chairman.*] What is that account in which those penknife erasures are observed?—It is an account between my principal and myself, and the auditor would be able to test the receiver-general's account without referring to this, were he to go to the sources from which I derive my information. It is true, it would save him much trouble to take this, and this would form a part of the basis for testing the receiver-general's account; but it would only be a saving of trouble to do so, and if I made this wrong, the receiver-general's account would be wrong.

1598. Mr. *Coningham.*] Are not the sums I have referred to, where the erasures occur, the sums paid in by Lord Granville?—No.

1599. In the accounts that have been referred to to-day of the year 1852, there also occur erasures repeatedly; there is a sum to the amount of 2,163*l.*?—Yes.

Francis Robert Bertolacci, Esq., further Examined.

F. R. Bertolacci, Esq.

1600. *Chairman.*] ARE there any points which you wish to bring under the notice of the Committee?—I would wish to call the attention of the Committee to the charter of incorporation under which the Duchy of Lancaster exists; that charter of incorporation is the first of Edward the Fourth, on the 4th of November 1461; omission has been made of any reference that I can now recall to mind, in the evidence laid before the Committee to this particular charter. If this charter exists at all it must be acknowleged; if it does not exist, I would wish to remark that the whole property of the duchy would immediately revert to the Crown, and that no duchy, in point of fact, would exist. It is said in the charter, "that the County of Lancaster be a County Palatine, and that our Liege and Sovereign Lord King Edward the Fourth and his heirs have as parcel of the said duchy, the same county of Lancaster, a County Palatine, and a seal, chancellor, judges, and officers there for the same, and all manner, liberties, customs, laws, royal and franchises in the same County Palatine lawfully and right wisely used, and over that another seal called the seal of the Duchy of Lancaster, and a chancellor for the keeping thereof; officers and councillors for the guiding and governance of the same duchy." This charter refers to the Act of the 2d of Henry the Fifth, passed on the 19th of November 1414, and gives to the officers therein named powers in as great, ample and large a form as at any time they had, used or enjoyed lawfully. In this Act of Henry the Fifth it is stated that the "duchy shall have special auditors, officers, and ministers, from time to time to be hereunto limited and assigned only by our same father and his heirs in the charters aforesaid specified, and not before the treasurer and barons of the Royal Exchequer, so that the treasurer and barons of the Exchequer aforesaid should not in anywise intermeddle in future in any the like moneys, farms, rents, issues, revenues, or profits, or in the auditing, having, rendering or determining any of the accounts or reckonings thereof."

1601. What

F. R. Bertolacci, Esq.

17 July 1857.

1601. What inference do you draw from that?—The inference I draw from this s, that this charter specially alludes to the Chancellor as the officer for keeping he seal, and it also refers to officers and councillors for the guiding and gover- ance of the duchy; I particularly wish to allude to that, because the opinion of he vice-chancellor of the county palatine and the opinion of the attorney-general f the duchy has been given that the Chancellor was the same party as the ouncil, that in point of fact there was no difference between the Chancellor and he council, and that their duties were the same; it appears to me that in this aper the respective functions they have to perform are distinctly pointed out s far as the governance of the duchy is concerned.

1602. Viscount *Goderich.*] You call this the charter?—It is the Act of Par- iament which incorporated the duchy. I may state that all the subsequent Acts of Parliament which have been passed have invariably used the words Chancellor and council," with the exception of one single instance. The Act f the 19th of George the Third, c. 45, prescribing the form in which the grants ee should be made, is quite consistent with the terms in the charter, as it ays, it shall be "by and with the advice and consent of the Chancellor and council f the said duchy." There is another Act, the 34th of George the Third, c. 75, s. 20, hich again refers to the Chancellor and council and officers of the said duchy, and he only exception which I find to the term "Chancellor and council" is in the 48th f George the Third, c. 73, providing against the possibility of some delay in he enrolment of leases, and at section 9 of that Act, where the Chancellor is upposed to act himself in a different capacity, it is there stated "as the Chan- ellor of the said duchy," or "the said surveyor-general may," &c. I have nerely referred to these Acts to call the attention of the Committee to what erhaps might have escaped them, showing that where the Chancellor is called pon to act separately from the council, there has been an exception made.

1603. *Chairman.*] What is the next point to which you wish to call the ttention of the Committee?—I shall be very happy to put in the whole of the orrespondence between myself and Mr. Gladstone, to show the grounds upon hich I received the auditorship of the Duchy of Lancaster.—(*The same was delivered in.*)

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APPENDIX.

Appendix, No. 1.

PAPER delivered in by *F. R. Bertolacci*, Esq., 23 June 1857. Appendix, No. 1.

31 December 1845.

THE Lords Commissioners of Her Majesty's Treasury having approved of the following Regulations and Instructions for conducting the Duties of the Commissariat Department, all Commissariat Officers in charge will observe and obey them, and take care that the Officers and other persons under their orders also pay attention and obedience thereto.

By Command of their Lordships,

C. E. Trevelyan.

EXTRACT from the CODE of REGULATIONS and INSTRUCTIONS for conducting the Duties of the COMMISSARIAT DEPARTMENT, Revised and Consolidated, 1 Dec. 1845.

Certificates required in Support of certain Payments. Page 120.

Art. 306.—No contingent expense is to be incurred by a Sub-Accountant without the sanction of the Commissariat Officer in charge of the Station; and no payment is to be made for purchases, repairs, or services on account of the Commissariat, without a certificate from a second Officer (or, if there be no second Officer, from some other individual of the department necessarily cognizant of the fact), that the purchase has been made, or the work or service actually executed.

Art. 307.—Certificates are to be obtained from Magistrates, or respectable merchants or dealers, in support of the rates charged for purchases, and for all work performed, means of conveyance, or articles hired to an amount exceeding 10*l.*, when the rates may not have been established by an agreement in writing, or upon competent authority.

Payments to be witnessed. Page 121.

Art. 308.—Every payment is to be verified by the signature of one, or, if the party receiving the money be unable to write, of two respectable witnesses.

Authorities to be annexed to Accounts. Page 121.

Art. 309.—All accounts should have the necessary authorities attached to them, and when the same authority is to serve for a succession of payments, the period of accounts, and the number of the voucher with which the authority is put up, are to be referred to on the receipts for all subsequent payments.

Appendix, No. 2.

Appendix, No. 2.

LETTER from *F. R. Bertolacci*, Esq., to *C. W. Stronge*, Esq.

5, Cornwall-terrace, St. George's-road, Pimlico,
26 January 1855.

Dear Sir,

Your letter of yesterday, on the subject of the accounts of the Duchy of Lancaster for the year ended Michaelmas 1854, was not left at the Ordnance Office until after official hours, and therefore I only received it this morning.

According to the Act of Parliament which requires these accounts to be presented to the House of Commons, the return should be made by the 23d February; but perhaps you will be so kind as to inform me whether you consider it of paramount importance that it should be presented by that day.

My reason for asking this question is, that the form in which the accounts of the duchy have hitherto been submitted to the auditors was disapproved of by the late Chancellor of the duchy, and not without reason, as on my attempting to examine the account which my predecessor omitted to audit before his resignation, I found myself met by several impediments in proceeding to test the large amount of arrears of rent said to be due to Her Majesty, owing to the system upon which such accounts have been made out having provided no means of definitely checking the balance outstanding and brought forward in each succeeding year.

This arises from the blending of former balances and arrears of rent with the balances and arrears of succeeding years, while the cash received and paid in each year has been carried to the debit or credit of the past, the current and also of the following year, to that for which the account was rendered, without any separate cash account of receipts and payments within each year having been kept to show to what year's account the several debits and credits had been posted so as to prevent double credits with the same sums, or the omission of sums in an account, which may have been received for it during a prior period to that for which it was rendered.

The last balance brought forward, therefore, is composed of a series of undefined previous balances.

With a view, therefore, to establish a proper system of account for the future, and, if possible, to disentangle the receipts and payments in each of the last few years, to test the balance said to arise from arrears of rents, on the 23d December I called on the deputy of the accountant to furnish me with a debtor and creditor account of cash received and paid within the period for which the accounts have to be presented to Parliament; and one of the reasons alleged by him to me for saying that such an account was unnecessary, was that the form according to which the accounts of the duchy had hitherto been made out, was the same which had been prescribed by the Treasury, under the powers given to that department by the Act of Parliament.

See Memorandum by Mr. Gooch (the clerk of the duchy acting as deputy to the Receiver-general), dated 23 December 1854, enclosed in letter from Mr. Danvers to Mr. F. R. Bertolacci on the same day.

After much correspondence the cash account has been furnished to me, but so recently as the night before last, namely, the evening of the 24th instant; and according to the plan of rendering the account for the year, the one I have received will contain only half the sum to be included in the return to Parliament.

Owing to there having been no regular system of book-keeping in the duchy, other difficulties occur in the examination of the accounts from payments having been made out of the gross amounts received, and the balances only having been paid to the bankers. For these reasons, and the necessity for perusing the enrolment of deeds to ascertain the sums to be charged to the accountant (and in some instances to be credited on account of abatements from such charges), you will see that it would hardly be possible to establish the correctness of the account by the 23d of next month, even were the whole of my time devoted to the subject; but as Sir Charles Trevelyan and Mr. Monsell have decided that I am not to attend to the duchy business during official hours, the time must necessarily be prolonged before I can possibly arrive at any conclusion on the subject of the duchy's accounts; and there are other matters relating to the duchy which require my immediate attention.

I have troubled you with these explanations;—

1. That you might, with due information on the subject, take the opinion of the Lords of the Treasury, and state whether the account must be laid before the House of Commons by the 23d proximo, examined or not.

2. That in the event of the return to Parliament not being made by the date appointed by the Act, and any Member asking for an explanation, the Secretaries to the Treasury might be able to afford it.

(signed) Yours very truly,
Francis R. Bertolacci.

Charles W. Stronge, Esq.,
&c. &c. &c.
Treasury.

Appendix, No. 3.

LETTER from *F. R. Bertolacci*, Esq., to Earl *Granville*. Appendix, No. 3.

5, Cornwall-terrace, St. George's-road, Pimlico,
2 February 1855.

My Lord,

I HAVE the honour to enclose a copy of the draft instructions transmitted to me by your Lordship on the 18th January, and, in obedience to your commands, I have placed against each subject the observations which have occurred to me in connection therewith.

Most of the points I have referred to, which may be considered irregularities, your Lordship will find to be those which I explained by word of mouth at the lengthened interview with which your Lordship honoured me on the 16th December, and in repeating them on the present occasion, in order more effectually to explain the reasons for my remarks, I wish to add, that my criticisms are upon the system as it has deteriorated into its present shape, and not upon the individuals who carry it into operation.

It seems to me to be very desirable that instructions and regulations should exist for the management of the property of the Duchy; but, with great deference, I beg leave to express an opinion that they should not be partial nor particular to any single object, but for all the officers of the Duchy, and based on the origin and constitution of the Duchy, as a trust for the Sovereign.

I have, within the last two days, received a paper from the clerk of the records of the Duchy, containing much valuable information with regard to the mode of effecting grants in fee, &c., and as I consider the matter one which is of the greatest importance, in a constitutional point of view, to the interests and safety of the Duchy inheritance of the Sovereign, and which essentially connects the functions of the auditor therewith, I must beg leave to make it the subject of a separate paper, to be submitted to the Chancellor and Council of the Duchy.

I have, &c.
(signed) *Francis R. Bertolacci.*

The Right Hon. Earl Granville,
&c. &c. &c.

Subject.	Remark.
Duchy of Lancaster.	
Instructions for the Auditor as to the Accounts.	
1. The first and most important point to be attended to by the auditor is to make himself thoroughly acquainted with the authorities, rules, regulations, and precedents relating to the accounts; to make an abstract of all such authorities, &c., from the enrolment, minute, and other books in the office of the Duchy, arranged according to the mode in which he proposes to make up and classify the annual account to be laid before Parliament; this will enable the auditor, during the examination of the account, immediately to ascertain that the items of the account then under examination are properly and sufficiently authorised.	1. Soon after I was appointed, I asked if there were any rules or regulations for the guidance of the officers of the Duchy, and was informed that there were none. Authorities have not always been given for disbursements, as may be seen by my remark on the contingent accounts to 24 May 1854, and * * * * In the business of the Duchy it has not been the practice for the bankers to require an authority to receive money, therefore neither the debit nor credit side of the account of the Receiver-general can be wholly checked by the minute book. The enrolment books are kept in the custody and under the management of the parties who virtually are the accountants, and the minutes of the Chancellor and council or court are kept in the office in their charge. The mode, therefore, pointed out by this instruction for the auditor to obtain the necessary information for checking the accounts makes such check no guarantee against

Appendix, No. 3.

Subject.	Remark.
against the possibility of fraud, as the means would exist on the part of those by whom and under whose directions the accounts are made out, to fit the information (to be afforded to the auditor) to the accounts, such as they might be rendered to him by them or by those under their authority and influence. The annexed instruction makes it the duty of the auditor to prescribe the mode in which the accounts are to be made up for Parliament, but that power is given to the Lords of the Treasury by the Act of 1 & 2 Vict. c. 101, and although I have pointed out to the Treasury the irregularities which the form, heretofore in use, is liable to conceal,* I have been informed by that department that it cannot be altered without the matter being submitted to their Lordships by the heads of the Duchy,† and as by the decision of the council (communicated to me by Lord Granville's letter of 4th December 1854) I am precluded from any interference in matters of a deliberative and executive nature, I have no power to act in deciding on the form of account.	
2. The chief difficulty in the examination of public accounts consists in checking and obtaining the authorities for all receipts and payments; but it is apprehended that no such difficulty can exist in a local examination of an account, such as that of the Duchy of Lancaster, the auditor having the means of referring to all the records of the department, and obtaining on the spot such explanations from the officers in charge of the accounts as may seem necessary in case of any apparent irregularity. With regard to the nature of examination which it would appear the account should receive, both as to the charge and discharge:	2. For the reasons stated in the foregoing remark, the fact of the authorities, &c., by which the accounts have to be checked, being in the office to which the accountant belongs, renders the examination less decisive, and places the auditor at the mercy of those who are the accountants, since he has been excluded from the meetings of the council from which the orders emanate.
I.—Charge or "Income" side of the Account.	
3. The auditor has to see that the amount of the balances in the accounts of the receiver-general and the receivers and agents are correctly brought forward from the preceding accounts.	3. When I attempted to check the large balances of rents said to be in arrear, and brought forward to the account which my predecessor had left unexamined before his resignation, I found that such balances could not be identified with either any date or cash account, and that the system according to which the yearly accounts of the Duchy had been made out and rendered to Parliament, afforded no means of checking the balances outstanding, and brought forward from year to year in each subsequent balance. This has arisen from the blending of former balances and arrears of rent with the balances and arrears of succeeding years, while the cash received and paid in each year has been carried to the debit or credit of the past, the current and also the following year to that for which the account was rendered, without any distinct cash account of receipts and payments within each year having been kept to show to what year's account the several sums received or paid had been posted, so as to prevent double credits with the same amounts, the omission of sums in an account which may have been received for it during a prior year to that for which the account was rendered, or the substitution of sums paid on account of arrears (included in former balances) for rents received during the current year. The "balance brought forward from the preceding account" is composed therefore of a series of undefined previous balances on account of which, in each successive year, sums may have been paid without being credited to the Duchy. For these reasons, it is evident that, with the present system in operation, the auditor's signature to an account in which a former balance has been included, may cover serious defalcations unless a retrospective examination be first made in the amount said to be in arrear, and a regular system of cash account kept in future.

* *See* Letter from Mr. F. R. Bertolacci to Mr. Stronge, the Parliamentary Clerk to the Treasury, on 26th January 1855.

† *See* Letter from Mr. Stronge, the Parliamentary Clerk to the Treasury, written to Mr. F. R. Bertolacci, on 27th January 1855.

Subject.	Remark.
II.—Rents due to Her Majesty.	
4. This is the head of receipt which requires the most labour and attention; the leases are in many cases very ancient, some dating so far back as the year 1777. It is the duty of the auditor to ascertain that the amount of rent collected in each case is in accordance with the terms of the lease, so far as relates to any lease that might be granted during the period of his office. With respect to the amounts received for rent on leases granted before the tenure of his office, all that appears to be necessary is to see that the amounts brought to credit correspond with the sums shown to have been received in the preceding accounts, the correctness of which sums had been ascertained by the auditor's predecessors; but in case of any difference as to the amount of receipts between the present and preceding account, the auditor should satisfy himself that the alteration in the amount of receipts was made under sufficient authority.	4. It is here presumed that the previous audits have established the correctness of the accounts. Such, however, is not the case, as, after the account for the year ended 29th September 1852 had been audited, the balance struck and declared, and the account itself presented to Parliament, it was found to be incorrect by an omission of 50 *l.*, for which credit had actually been taken, and the sum not accounted for, thus showing that the system on which the accounts have heretofore been rendered does not warrant their being made the basis of future audits. The plan which is proposed of restricting the inquiries of the auditor to the proceedings of future years, and requiring him to take for granted that which has been done before, should be persisted in, is likely to conceal transactions which on the contrary should be inquired into; and I must here beg leave to advert to the verbal communication I had the honour of making to Lord Granville on the 16th of December, when I informed his Lordship that I had met with an instance in the accounts in which rent had yearly been applied in replacing capital, without its being shown that the capital replaced had actually belonged to the Duchy. By adopting the course proposed in these instructions, any errors which may now exist will be carried on from year to year, and be confirmed as correct by the signature of the auditor.
III.—Arrears of Rent due to Her Majesty on the preceding Account.	
5. All that is required in the examination of this item is, to compare the several sums brought to credit with the list of outstanding arrears in the preceding account.	5. This appears to me a very superficial manner of keeping and examining the account, and one which may allow of sums remaining too long in the hands of the collector. Although it may be convenient, for the sake of arriving at a total, to add the arrears of different periods together, yet I am of opinion that a separate rent account should be opened for each year, showing all the sums becoming due and paid within that period; that the balance of such account should be struck at the end of the year; and that at the commencement of each succeeding year a fresh account for the original year should be opened, showing the particular debtors and amounts in arrear, so that when any such arrears are paid or recovered by legal process, they may be posted to the year's accounts to which they belong, and a corresponding credit given to the cash account of the year in which the money is paid. There is no official book of the Duchy for recording the arrears of rent, which are only kept in the private book of the deputy of the receiver-general; neither are the arrears and payments thereof entered in such a manner as to allow of any check being exercised; and the mode of examination here pointed out seems particularly in unison with his book. The plan by which rents in arrear are recorded is to add to the arrears the amount accruing, and make a total in a third column; from this total the sum paid is deducted. As no dates of payment are inserted against such sums, there is nothing to establish the amount of arrears at any particular date. Neither is it possible to check the details by the total amount of rents received within any period, as no totals are periodically stated, and as the accountant makes numerous payments out of the sums he collects, and pays
IV.—Deduct outstanding Arrears due in the present Account.	
The auditor should ascertain why these arrears had not been received within the period of the account; and in case of any omission on the part of the receivers or collectors to collect or bring to credit any sum due, he should bring the subject under the consideration of the Chancellor, for his decision as to whether the receivers or collectors should not be surcharged with the amount.	
V.—Dividends on Stock.	
The auditor should examine the stock account, and see that the dividends due thereon are brought to credit as early as possible.	

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Subject.	Remark.
the balances only into the bank. By this means it is not possible to fix the accountant on any given date with the exact sum in his hands. I do not think it is consistent with the office of an auditor that he should be fettered in using any legitimate means of getting information, and he should be put in such a position as to correspond with any of the parties liable to pay money to the Duchy, or who may be entitled to payment from the receiver-general.	
VI.—Casual Revenue.	
6. The receipts under this head consist principally of sales of timber, creation money received by sheriffs, the amounts received out of the Consolidated Fund for the absolute purchase and surrender of the duties of prisage and butlerage within the county palatine, and various small receipts derived from fines and profits arising out of the liberties of the Duchy.	6. Although these items may be small in themselves, they are of that nature which afford easy means of peculation, against which the best check which the auditor can exercise is by a direct and inquiring correspondence with the parties, and with others on the spot, which of course must entail trouble and the expenditure of time.
In the examination of all these items, it is the duty of the auditor to see that the usual authority has been obtained whenever the same was required; that the accounts of particulars for sales, fines, profits, &c., are properly authenticated, and that the accounts are correct in all other respects.	
There are also other sums brought to credit under this head, on account of "Issues of Green-wax," an account of which is separately kept, and rendered by the receiver of fines and issues. This is a sub-account to the receiver-general's account; it would probably occupy the auditor about half an hour for each annual account. Another sub-account is also kept and made up by the "Particular Receiver of Her Majesty's Duchy of Lancaster, arising in the Lordship of High Peak, in the County of Derby." This is an account requiring but a short time to examine.	
The above relates to the Charge side of the Account.	
7. Expenditure or Discharge of the Account.	
I.—Salaries and Allowances to the Officers of the Duchy, the Receivers and Agents, and the Stewards and Bailiffs.	
The auditors should compare the lists of salaries and allowances with the lists of the preceding account, and in case of any alterations of the amounts paid to any of the officers, he should see that such alterations have not been made without the proper authority. In case of salaries being paid for broken periods of the division of the year in which the salaries and allowances are due, he should compute such salaries, and ascertain that the amount charged is correct, but in case of any over-payment being discovered, he will disallow the amount of such over-payment, and should the amount not be repaid within the period of the annual account, the disallowance should be shown on the auditor's statement laid before Parliament.	7. The same principle as heretofore advocated of basing the future audits on the past state of the account, is also in this instance adopted by the instruction, so that any irregularities which may have existed in the past transaction connected with the payment of the several small salaries would by this system be wrapped up in each succeeding year's audit. I think it necessary that I should here allude to the nature of the payments, the warrants for making the payments, the kind of receipt given, and the fund from which the payments are made. The salaries of the principal officers can be easily checked; but besides this, there are numerous small salaries and allowances varying in amount, from 1 *l.* 1 *s.* to 250 *l.* to stewards and bailiffs of the Duchy in the country, many of whom are persons in the higher grades of society, to whom these small salaries can be of no importance. In many instances the sums are not received by the parties to whom they are payable; but by the stewards and bailiffs on their estates, who do not procure an order from their masters to receive the money, nor tender the receipt on behalf of the proper persons, but sign it themselves. If therefore any fraud should be practised by these sub-bailiffs, the discharge to the Duchy would not be a legal one; and at utmost they could be but charged with a breach of trust. The warrant for these payments are on a form printed on parchment, which requires only the insertion of the name of the intended recipient,
He should also ascertain that receipts are produced in all cases.	
II.—Annuities and Retired Allowances.	
The auditor should give the same examination to this head of service as in the preceding head of salaries.	
III.—Donations	

Subject.	Remark.	Appendix, No. 3.

III.—Donations and Charities.

These payments being made under the authority of the Chancellor, or under Royal Sign Manual warrant, the same should be examined by the auditor; he should also require the production of the receipts.

recipient, and the impression of the Duchy seal. This seal is kept in the custody of the accountant who makes the payments, and the receipt (which completes his discharge) is given by the party to whom the money is paid, signing his name on such warrant as having received the amount therein stated, without such signature being witnessed by anybody.

IV.—Law Charges.

The auditor should see that the authority for the payments of these charges had been obtained, and that the account casts correctly.

The accountant makes these payments in the localities where he goes to receive the rents, and out of the sums which he there and then collects.

By this means, there is no check against the gross sum from which the accountant makes these payments; and as no evidence is afforded of the existence of the parties, the functions of the auditor are confined to the bare comparison of documents, for the correctness of which he is obliged to trust to the integrity of the accountant.

V.—Surveys and Valuations.

8. The authorities of the Chancellor or orders of the council should be examined by the auditor in all cases; he should require the accounts of particulars to be furnished to him for examination, and see that the charges are in accordance with the terms of the contracts, where the expenses have been incurred under contract, and that the accounts cast and compute correctly, and are properly vouched.

8. It has been the practice of the auditor to sign the leases, and examine the valuations by the surveyor, both of property to be leased and sold by the Duchy. Up to the time of Lord Granville Somerset being the Chancellor, the auditor examined the valuations (of the surveyor of house property) before the leases were decided on by the Chancellor and council; at that period, however (the auditor being a member of the council), it was thought sufficient that he should sign the lease itself.

When I was called upon to sign the leases and bills for sale of land, I questioned the valuations of the surveyors (which appeared to me to be superficially made) before affixing my name to the leases and bills to pass the Duchy seals. The result has been, that a committee of the Vice-chancellor and Attorney-general of the Duchy was appointed to report whether it was necessary that the auditor should sign the leases; and upon their report, I am informed by the clerk of the council, that I am no longer required to sign the leases. The enrolment of these deeds under the direction of the parties who have either to receive the money, or see that it is paid to the bank, is the only means the auditor has of ascertaining that the decision of the Chancellor and council to the lease of the property has been actually carried into effect.

The enfranchisement of lands by the Duchy, involving both valuations and commutations, and in some instances the payment of money to individuals for the interest possessed by them in the leases of manorial rights, have been effected by the clerks of the Duchy, who in such enfranchisement deeds have stated the act to be that of the Queen, with the advice of the Chancellor and council, although such proceedings had not been previously sanctioned by the Chancellor and council. In these instances a small impression of the Duchy arms, which has been kept in the custody of the first clerk, has been substituted for the Duchy seals, under which all acts of the Sovereign are effected. By this means the auditor has been prevented from exercising any check on the alienation of this branch of the hereditary revenues of the Duchy.

VI.—Labourers' Wages, Travelling Expenses, Rates and Taxes, Tradesmen's Bills, &c.

In all these cases the auditors should see that the several payments have been made under sufficient authority, that all accounts of particulars and bills are produced and examined by him, and that proper vouchers are furnished in all instances.

VII.—Payments out of the Revenue to the Privy Purse.

The auditor should see the authority for the payment, and examine the receipt.

9. An account is also kept by the clerk of the council, on account of the contingent expenses of the office. This account should also be examined by the auditor; he should see that the payments are of ordinary character; but if any charge is found therein of an

9. I think that in all cases the clerk of the council should, for every expense, obtain either an order of the court, or an allowance of it after it has been incurred, which should be the auditor's warrant for passing the charge.

Appendix, No. 3.	Subject.	Remark.
	an unusual character, or any extravagant expenditure has been incurred, he should require explanation; and he should see that the account is properly vouched and cast.	
	Balance.	
	10. The auditor should ascertain that the amount of balance in the hands of the receiver-general is not larger than appears necessary for his immediate requirements; that the amount not immediately required is placed out to the best advantage, and that proper security is given by the receiver-general.	10. From the antiquity of the offices of auditors of the Duchy (now united into one), the position held in the Duchy by my predecessors, and the duties discharged by them (although, of later years, perhaps not very vigilantly), has left no doubt upon my mind, from the time that the powers of the Sovereign were limited over this inheritance of the Crown, the auditor was a constituent part of the trust (*vide* Coke's "Institute," Part IV., pp. 204 to 210), whose duty it was to see that the hereditary property of the Duchy was neither wasted nor misapplied; and the duties here assigned to him are in accordance with that principle, which, to a certain extent, was supported by the reason assigned by Earl Granville on the 10th August,* with reference to that part of my memorandum of the 4th August relating to my exclusion from the council, when his Lordship said, "I think the auditor should not be a member of the council, so that, if we do wrong, he should not be a party to the act, but be a check upon the council in case they should err from inadvertence, neglect of duty, or worse motives. I will, however, take the opinion of the council on the subject."
		It was on the same day that Lord Granville said that the auditor was to examine the valuations made by the surveyors (as had been the practice antecedent to Lord Granville Somerset's minute) before the leases and grants should be submitted to the Chancellor and council; but this course has since been reversed, before any opportunity has been afforded me of acting on such decision; and the subsequent proceedings have been such as to deprive the auditor of all powers of exercising any check over the application of the property of the Duchy, and to put him in the position of a blind agent of the Chancellor and council, as may be seen by the communication from the clerk of the council requiring my signature to bills for the sale of the inheritances of the Sovereign, without allowing me the opportunity of checking the valuation of the Duchy property by the surveyors for either leases or grants in fee, according to precedent from the earliest periods of the Duchy.
	11. The auditor is required to make up, every year, an annual statement of the gross and net revenue of the Duchy of Lancaster, for the year ending at Michaelmas, to be laid before Parliament. Finally, the auditor should audit the accounts as quickly as possible after the expenses have been incurred, in order that he may at once point out any error that may have occurred in the accounts.	11. This requirement is a duty which has not been discharged by my predecessors; it is not required by the terms of my patent, and, unless the auditor is to be controlled by the Lords of the Treasury (which would be quite at variance with the charters of the Duchy), the powers I should thus exercise would be those specially claimed by the Treasury Board under the Act of 1 & 2 Vict. c. 101. I have, however, no objection to perform any extra functions which can be of benefit to the Duchy, if power, time, and opportunity are afforded me by the Ministers of the Crown for the purpose.
	12. In addition to the above instructions, the auditor is required to report generally upon the system of accounts, as now kept in the Duchy Office.	12. This has, in a great measure, been done by the present observations, and would have been done more fully had not Government thrown impediments in the way of those investigations which I wanted to make, and for which the late Chancellor informed me that Mr. Monsell had privately told him he would allow me to be absent from the Ordnance Office on his making an application for my services,—a fact corroborated at the time by Mr. Monsell's chief clerk; but upon Earl Granville's making application to Sir Charles Trevelyan on the subject, that gentleman, Mr. Monsell, and his chief clerk have opposed themselves to my being allowed any time from my Ordnance duties for the purpose.

* (1854).

Subject.	Remark.
	Grants in Fee and Leases.
13. Further, it is the duty of the auditor to see that the bills for grants in fee and the drafts of leases submitted to him for signature are drawn conformably with the terms previously settled by the Duchy Court, for which purpose he will refer to the council minutes on the subject of each grant or lease, as the case may be. Also to examine, at the end of every quarter, the Duchy Fee Fund Account, to see that the fees established by prescription or order of court are received and accounted for, and that the half-yearly remittances by the seal-keeper in the county palatine on account of monies received for sealing writs are duly placed to the credit of the Fee Fund. For this service all books, instruments, and bills of fees that the auditor may require to assist in the proper examination of the account will be accessible to him. And, finally, to attend to any matters and accounts which the Duchy Court may think proper to refer to the auditor for his consideration and report.	13. It will be seen, by reference to my remark on No. 8, that I have been precluded from making any inquiry into the valuation by the surveyors for the yearly sum at which the property of the Duchy should be let; and as in the cases of grants in fee which alienate the property for ever from the inheritance of the Sovereign, the consideration (purchase-money) is calculated according to the rental of the property to be disposed of, it follows, as a natural result, that by the auditor being excluded from exercising any check upon the letting of the property for less than its real value, I am, by the course adopted and pursued since my appointment to that office, prevented from exercising any check upon the loss of capital arising by the disposal of the inheritance of the Sovereign; yet, by the ninth instruction, I am required to see that the proceeds of such sales are "placed out to the best advantage, and that proper security is given by the Receiver-general."

The instructions and the restrictions placed on the functions of my office (I do not feel myself at liberty to say properly) are inconsistent with each other.

As this instruction states that it is the duty of the auditor to sign the bills for the grants in fee, according to the previous decisions by the court, I feel bound to call attention to cap. 36 of Coke's Institute, in which the auditor is stated to be one of the court.

It seems, therefore, inconsistent to assume either that he can divest himself of that which, according to such authority, has belonged to his office, or that, when he signs the bill itself and affixes the title of his office to his name, that he does not sign it in his official capacity as a member of the court, participating in the act, and having a full knowledge of the facts contained therein.

The second signature of the attorney-general and himself to a certificate at the foot of the bill (without stating their official capacities), saying that it has been prepared for the "Royal signature pursuant to a minute of the council," would also bear out the idea that at the time that the Crown was by statute debarred from an arbitrary control over the inheritance, it was not intended that the power thus taken from the Sovereign with regard to her personal property should be conferred on any one of her subjects, but that the trust should be reposed in an institution of which the attorney-general and auditor formed constituent parts. This principle appears to have been followed out in the subsequent Parliamentary enactments, sanctioning the sale of the Duchy property, but providing that such sales should be effected by the Chancellor and council of the Duchy; while at the period of these enactments there was no other council than the officers of the Duchy, including the auditor; nor have any Acts of the Legislature been since passed to constitute any other body in lieu thereof.

While preparing these observations on "the instructions for the auditor," I have received from the clerk of the records a paper which appears to bear directly on the subject, and to confirm the constitutional view of the matter; but as that paper will be made the subject of a special case, to be submitted to the Chancellor and council, I will not insert it here.

2 February 1855. *Francis R. Bertolacci.*

Appendix, No. 4.

Appendix, No. 4.

LETTER from Earl *Granville* to *F. R. Bertolacci*, Esq., with Instructions for the Duties of Auditor.

My dear Sir, London, 2 March 1855.

I HAVE carefully considered the observations which have been made by you according to my request on the draft of instructions prepared at this office with the assistance of the Audit Office.

I do not think it necessary to discuss all the points raised by you, but have caused certain alterations to be made to meet your remarks upon the 1st and 24th paragraphs.

I have now to request you to inform me whether you are of opinion that you can comply with these instructions in their present form, notwithstanding the refusal of the Ordnance Office to give you leave of absence for this purpose; and if so, what time of the day you propose to give to the duties of your office here.

I should have communicated with you earlier on this matter if I had not been in daily expectation of the appointment of my successor.

Yours sincerely,

F. R. Bertolacci, Esq. (signed) *Granville.*

DUCHY of LANCASTER.—Instructions for the Auditor as to the Accounts.

THE first and most important point to be attended to by the auditor, is to make himself thoroughly acquainted with the authorities, rules, regulations, and precedents, relating to the accounts, to make an abstract of all such authorities, &c., from the enrolment, minute, and other books in the office of the duchy, arranged according to the mode in which he proposes to make up and classify the annual account of the receiver-general. This will enable the auditor, during the examination of the account, immediately to ascertain that the items of the account then under examination are properly and sufficiently authorised.

The chief difficulty in the examination of public accounts consists in checking and obtaining the authorities for all receipts and payments, but it is apprehended that no such difficulty can exist in a local examination of an account, such as that of the Duchy of Lancaster, the auditor having the means of referring to all the records of the department, and obtaining, on the spot, such explanations from the officers in charge of the accounts as may seem necessary, in case of any apparent irregularity.

With regard to the nature of examination which it would appear the account should receive, both as to the charge and discharge.

1. Charge, or "Income" Side of the Account.

The auditor has to see that the amount of the balances in the accounts of the receiver-general and receivers and agents are correctly brought forward from the preceding accounts.

2. Rents due to Her Majesty.

This is the head of receipt which requires the most labour and attention; the leases are in many cases very ancient, some dating so far back as the year 1777. It is the duty of the auditor to ascertain that the amount of rent collected in each case is in accordance with the terms of the lease, so far as relates to any lease that might be granted during the period of his office. With respect to the amounts received for rent on leases granted before the tenure of his office, all that appears to be necessary is to see that the amounts brought to credit, correspond with the sums shown to have been received in the preceding accounts, the

the correctness of which sums had been ascertained by the auditor's predecessors; but in case of any difference as to the amount of receipt between the present and preceding account, the auditor should satisfy himself that the alteration in the amount of receipt was made under sufficient authority.

3. Arrears of Rent due to Her Majesty on the preceding Account.

All that is required in the examination of this item is, to compare the several sums brought to credit with the list of outstanding arrears in the preceding accouut.

4. Deduct outstanding Arrears due in the present Account.

The auditor should ascertain why these arrears had not been received within the period of the account, and in case of any omission on the part of the receivers or collectors to collect or bring to credit any sum due, he should bring the subject under the consideration of the Chancellor for his decision, as to whether the receivers or collectors should not be surcharged with the amount.

5. Dividends on Stock.

The auditor should examine the stock account, and see that the dividends due thereon are brought to credit as early as possible.

6. Casual Revenue.

The receipts under this head consist principally of sales of timber, creation money received by sheriffs, the amounts received out of the Consolidated Fund for the absolute purchase and surrender of the duties of prisage and butlerage within the county palatine, and various small receipts derived from fines and profits arising out of the liberties of the duchy.

In the examination of all these items, it is the duty of the auditor to see that the usual authority has been obtained, whenever the same was required, that the accounts of particulars for sales, fines, profits, &c. are properly authenticated, and that the accounts are correct in all other respects.

There are also other sums brought to credit under this head, on account of "Issues of Green wax," an account of which is separately kept and rendered by the receiver of fines and issues. This is a sub-account to the receiver-general's account; it would probably occupy the auditor about half an hour for each annual account.

Another sub-account is also kept and made up by the "Particular Receiver of Her Majesty's Duchy of Lancaster arising in the Lordship of High Peak, in the county of Derby." This is an account requiring but a short time to examine.

The above relates to the charge side of the account.

EXPENDITURE, OR DISCHARGE OF THE ACCOUNT.

1. Salaries and Allowance to the Officers of the Duchy, the Receivers, and Agents, and the Stewards and Bailiffs.

The auditor should compare the lists of salaries and allowances with the lists of the preceding account, and in case of any alterations of the amounts paid to any of the officers, he should see that such alterations have not been made without the proper authority. In case of salaries being paid for broken periods of the division of the year in which the salaries and allowances are due, he should compute such salaries, and ascertain that the amount charged is correct; but in case of any over-payment being discovered, he will disallow the amount of such over-payment; and should the amount not be repaid within the period of the annual account, the disallowance should be shown on the auditor's statement laid before Parliament.

He should also ascertain that receipts are produced in all cases.

2. Annuities and Retired Allowances.

The auditor should give the same examination to this head of services as in the preceding head of salaries.

3. Donations and Charities.

These payments, being made under the authority of the Chancellor, or under Royal Sign Manual warrant, the same should be examined by the auditor; he should also require the production of the receipts.

Appendix, No. 4.

4. Law Charges.

The auditor should see that the authority for the payments of these charges had been obtained, and that the account casts correctly.

5. Surveys and Valuations.

The authorities of the Chancellor, or orders of the council, should be examined by the auditor in all cases; he should require the accounts of particulars to be furnished to him for examination, and see that the charges are in accordance with the terms of the contracts, where the expenses have been incurred under contract, and that the accounts cast and compute correctly, and are properly vouched.

6. Labourers' Wages, Travelling Expenses, Rates and Taxes, Tradesmen's Bills, &c.

In all these cases the auditor should see that the several payments have been made under sufficient authority, that all accounts of particulars and bills are produced and examined by him, and that proper vouchers are furnished in all instances.

7. Payments out of the Revenue to the Privy Purse.

The auditor should see the authority for the payment and examine the receipt.

8. An account is also kept by the clerk of the council on account of the contingent expenses of the office, this account should also be examined by the auditor, he should see that the payments are of ordinary character, but if any charge is found therein of an unusual character, or any extravagant expenditure has been incurred, he should require explanation; and he should see that the account is properly vouched and cast.

9. Balance.

The auditor should audit the accounts as quickly as possible after the expenses have been incurred, in order that he may at once point out any error that may have occurred in the accounts.

In addition to the above instructions, the auditor is required to report generally upon the system of accounts as now kept in the duchy office.

Further, it is the duty of the auditor to see that the bills for grants in fee and the drafts of leases submitted to him for signature are drawn conformably with the terms previously settled by the duchy court, for which purpose he will refer to the council minutes on the subject of each grant or lease, as the case may be.

Also, to examine at the end of every quarter the Duchy Fee Fund Account, to see that the fees established by prescription, or order of court, are received and accounted for, and that the half-yearly remittances by the seal-keeper in the county palatine on account of monies received for sealing writs, are duly placed to the credit of the Fee Fund. For this service all books, instruments, and bills of fees that the auditor may require to assist in the proper examination of the account will be accessible to him.

And, finally, to attend to any matters and accounts which the duchy court may think proper to refer to the auditor for his consideration and report.

Appendix, No. 5.

LETTER from *F. R. Bertolacci*, Esq., to Earl *Granville*. Appendix, No. 5.

5, Cornwall-terrace, St. George's-road,
My Lord, Pimlico, 10 March 1855.

I HAVE the honour to enclose the statement of the inquiries referred to in my letter of the 6th instant.

Should the document appear to your Lordship crude and imperfect, I must seek at your hands that extent of indulgence to which you may think me entitled from the difficulty of the subject, and the impediments which exist to my obtaining information on matters of this nature.

In taking the liberty to submit for your Lordship's perusal this report of the facts alluded to, I beg leave most humbly to apologise for the freedom with which I have entered on the subject, and to assure you, first, that I have been actuated solely by a sense of duty to Her Majesty, and of the obligation I feel myself under by the nature of my office, and the circumstances of the case, to make the inquiry. Secondly, that I have not the most remote wish to oppose myself to constituted authority, but, on the contrary, to seek out the facts of the case (freed from any errors which by inadvertence on the part of the officers of the duchy, may from time to time have crept into the system), and bow with perfect submission to whatever may prove to be established by law.

I have, &c.
(signed) *Francis R. Bertolacci.*

The Right Hon. Earl Granville,
&c. &c. &c., Bruton-street.

Enclosure in Letter, dated 10 March 1855, Mr. *Bertolacci* to Earl *Granville*.

HAVING been called upon by the clerk of the council to sign (as auditor) the bills in two places, by which Her Majesty is advised to make grants in fee of the hereditary lands of the Duchy of Lancaster, namely; first, the bill itself, which is submitted to the Queen, for Her Majesty's sign manual, and in which it is stated that the sum mentioned therein is "the best price or consideration money which the Chancellor and Council are able to procure" for the property; and, secondly, to the certificate at the foot of the bill, stating that it is prepared for Her Majesty's signature pursuant to a minute of the Council of Her Majesty's said duchy. The following questions have arisen with me.

Whether my signature to the bill does not convey to Her Majesty the idea that I am an advising party to the sale of the property for the sum stated in such bills to be the consideration money for the land, &c.?

Whether I am not in duty bound also as "auditor," to ascertain, before signing the bill, that the particulars therein stated are in accordance with the full value at which the property should be disposed of, and whether by my attaching (as I am required to do) the word "auditor" after my name to the foot of the bill itself, the Queen is not thereby led to believe that I have, as an officer of check, satisfied myself that every protection has been afforded to the interest of the Royal inheritance?

It is however represented to me,

1st. That the auditor is not a member of the Council by virtue of his office, and is not an advising party, and therefore, that I ought not to question the acts of the Chancellor and Council, but that I am to be obedient to the Council.

2d. That the signature of the auditor implies merely that the bill is in conformity with the minutes of the court (or as it is sometimes called council), without his participation in their deliberations or acts, that therefore I am to sign the bills upon seeing a minute professing to be of the Chancellor and Council, disposing of the property for the sum therein decided on without inquiring whether the amount for which it is to be sold is equivalent to its real value.

Appendix, No. 5.

3d. That the Chancellor is absolute in matters connected with the management of the duchy property, and that therefore he is both Chancellor and Council, and that, consequently, I am not to exercise any functions of check in reference to the bills which I sign, but am to sign them on the mere production of the Chancellor's minute, which I am to consider as that of the Chancellor and Council, although the other members of the council may not have been present or taken any part in it.

I will not now stop to question, as the Chancellors are being constantly changed; and as the signature of the Attorney-general, who is the only other party who signs the bills is stated to signify merely "his approval of the bill so far as the legal effect of the terms is involved," whether such a mode of proceeding does not virtually place in the hands of the clerk of the council the absolute power claimed for the Chancellor, but I shall proceed to state that I have referred,

1st. To Coke's Institutes, to ascertain the constitution of the duchy.

2d. To the Acts which are quoted in the bills as those under which the sale of the duchy property may be effected, and to the prior Acts quoted in such statutes.

3d. To the clerk of the records, for any information he could afford me by searching in the records of the duchy to ascertain when the auditor was first required to sign the bills, and certificate to the bills for grants in fee, and under what authority he signs them; also in what respect (if any) does the duchy court differ from the council of the duchy.

4th. To my patent from the Queen, from which the following are extracts:

"Do give and grant unto our trusty and well-beloved Francis Robert Bertolacci, Esq., the office of auditor of the accounts of all and singular receivers, sheriffs, collectors, bailiffs, prepositors and farmers, and of all other officers, occupiers, and ministers of us, our heirs and successors, accountable of and in respect of all and singular honors, castles, lordships, manors, lands, tenements, rents, and services; and of and in respect of all other possessions and hereditaments whatsoever now belonging to, or being parcel of, or which may hereafter belong to, or be parcel of our said Duchy of Lancaster as well in England as in Wales," * * * (which said office "by letters patent, under the seals of the Duchy and County Palatine of Lancaster, bearing date the fifteenth day of April, One thousand Eight hundred and Forty-three, was given and granted unto John Gibson Lockhart, Esq., during our pleasure, and the said John Gibson Lockhart having resigned the said office, we have determined, and do determine the said recited letters patent to him thereof made as aforesaid.) To have, hold, enjoy, exercise, and occupy the said office, with the said salary of two hundred pounds per annum unto him the said Francis Robert Bertolacci, to be executed by himself, or his sufficient deputy or deputies, for whom he will be answerable during our pleasure. Giving and by these presents, granting unto the said Francis Robert Bertolacci, his deputy or deputies, during his continuance in the said office, full power and authority all and singular the accounts of and in respect of all and singular the premises to audit, hear and determine, and to make, execute, and exercise all and singular the things which the nature of the account in itself shall exact, and in that part require according to the tenor of these our letters patent. We command also by the tenor of these presents, all and singular sheriffs, barons, mayors, justices, constables, bailiffs, receivers, farmers, prepositors, and ministers whomsoever interested in this behalf, that unto the said Francis Robert Bertolacci, and his deputy or deputies in the execution of the aforesaid office according to the tenor of these presents, they be in all things attending, observing, aiding and advising, as it becometh them. In witness whereof, we have caused these our letters to be made patent. Given at our palace of Westminster as well under the seal of our said Duchy of Lancaster, as under the seal of our County Palatine of Lancaster."

It must be observed, that, at the period when the Duchy of Lancaster was created, the Sovereign had greater powers than at present belong to the head of the State; but as these powers were constitutional, and the acts done under them were consequently legal, they have remained in force, unless repealed or amended by some subsequent power used in accordance with the constitution and laws of the realm for the time being.

The duchy arose out of the prerogative of the King, and (although not held in the first instance by the person of the Sovereign), its constitution and institution were regal, and have remained so. The subsequent enactments of Parliament have not touched its original constitution (so far as it relates to the management of the property), nor changed its object, but, on the contrary, by modifying the power of the Sovereign over the property of the duchy, have maintained that corresponding ratio between the power of the King or Queen over the duchy inheritance, to that which the Sovereign now has with regard to the State, comparatively with his or her former privileges.

It may therefore be stated, that the enactment of Queen Elizabeth, and those of subsequent reigns, have tended to maintain the duchy as an institution in its original integrity and purpose, for the benefit of the person of the Sovereign, for the time being, rather than allow its existence as a Royal inheritance, to be endangered by the exercise of powers, which might have tended to its own annihilation, when the means no longer existed to repair the damage from the resources of the State at the pleasure of the Crown.

In respect, therefore, to the first position, which is connected with the constitution of the duchy court, the cap. 35 of the Fourth Part of Coke's Institutes, treating on the origin of the

the Court of Wards and Liveries, may effectually be quoted, for it thereby appears that this court was formed after the model of the Duchy Court of Lancaster, and bears directly on the point of the auditor's position and functions. Appendix, No. 5.

"First the King, our said soveraigne lord by the authority aforesaid, ordaineth, maketh, establisheth, and erecteth a certaine court, commonly to be called for ever the Court of the King's Wards: which court by authority aforesaid, continually and for ever shall be a court of record,* and shall have one seale to be graven and made after such form, fashion, and manner, as shall be appointed by the King's highnesse, and shall remaine and be ordered, as hereafter shall be declared."† The Statute of 32 H. 8, c. 46. The Court of the King's Wards.

"Also be it enacted by authority aforesaid, that all wards which the King's hignesse now is, or hereafter may be entitled to have, with their mannors, lands, tenements, rents, remainders, reversions, services, and all other hereditaments, whatsoever they be, as well in possession as reversion, and all revenues, issues, and profits of the same, and every part thereof for the time the same shall be, or ought to be, in the King's possession, shall be in the order, survey, and governance, of the said court, and the ministers of the same, in manner and forme as by this Act is declared and limited." *See* the first part of the Institutes, sect. 441. All wards, manors, lands, &c. In the order survey, &c.

"Also, that the said master of the wards, for the time being, shall have full power and authority to award under the seale to be appointed to the said court in the King's name such proces and precepts with reasonable pains to be therein limited as be now commonly used in the court of the King's Duchy Chamber of Lancaster, being at Westm., against every person or persons whatsoever they be, for and concerning the interest, right and title of the King's majesty, his heirs and successors of, in, or for any wards, lands, tenements, rents, account, receipt, services, or other cause, in any wise touching or concerning anything appointed by the order of the said court, or any part thereof, for and on the behalfe of our said soveraigne lord the King, or to or for any debt rising and growing by occasion of the same." Proces. Duchy Chamber. In anywise touching or concerning, &c. Debt.

"Also, be it enacted by the authority aforesaid, that the said attorney, receiver-general, and auditors, shall diligently from time to time attend upon the said master in the said court, for the hearing and auditing of matters and causes in the same court, for the time of four terms in the year usually kept for the law at Westm., and procure with all diligence, that all rentes, fermes, profits, casualties, improvements, and other emoluments of the wards, marriages, ideots, and all mannors, lands, tenements, and hereditaments, being in the survey and governance of the said court, shall be truly and justly paid and answered, to the said receiver-general of the said court, to the use of the King's highnesse, without concealing any part thereof." "And shall also cause and procure processe to be made against such as shall be indebted to the King's highnesse and their sureties, of and for any part thereof, from time to time, as the time and case shall require, without any delay." Attend. By the said Act of 33 H. 8, the surveyor is added, and to take place before the attorney. Indebted.

"Also, be it enacted, by the authority aforesaid, that all manner of proces that shall be made out of the King's Exchequer, to or against any person or persons, for any ferme, rents, issues or profits, concerning the premises or any part thereof, or any other thing limited in this Act, to be in the survey, order, and governance of the said court, and the minister thereof, shall be clearly void and of none effect to all intents and purposes." No process out of the Exchequer for or concerning any ward, &c.

"Also, be it enacted by the authority aforesaid, that the said master, by the advice of the said attorney, receiver-generall, and auditors, or three of them, whereof the said master to be one of them, shall have authority by this Act to survey all the King's widows, and to treat, commune, and conclude as well with all and every of the King's widows that now be, or hereafter shall be, and that have married themselves without the King's license, or that hereafter shall happen to marry themselves without the King's license, for their reasonable fines to be made to the King's use, and to tax and assesse the same by their discretion, according to the statute of *Prærogativa Regis;* the same fines to be paid to the receiver-generall of the wards lands, as the same may appear yearly in his account." Widows.

"Also, be it enacted by the authority aforesaid, that the said master, by the advice of the said attorney, receiver-generall, and auditors, or three of them, shall have authority by this Act to survey, govern, and order all and singular ideots and naturall fools now being in the King's hands, or that hereafter shall come and be in the King's hands: And also to survey and order all mannors, lands, tenements, and other hereditaments whatsoever now being in the King's hands, or in the hands of any other person or persons, to their uses or to the use of any of them, that hereafter shall come and be in the King's hands, his heirs, and successors, in the right of any of them by reason of his Grace's prerogative Royall: and also by the advice of the said attorney, receiver-generall, and auditors, or three or two of them, to let and set the mannors, lands, and tenements to the King's use for the time of the King's interest for such rent and fine, as by their discretion shall be thought convenient; the finding and keeping the said persons, their wives, and children, and the reparation of their houses and lands alwayes to be considered in the doing thereof; the same rents and fines reserved to the King's grace to be paid alwayes to the hands of the receiver-generall of the wards lands for the time being, as the same may appeare in his account, and be recorded in the Court of Wards." Idiots; naturall fools. To let and set.

"And also, be it enacted by the authority aforesaid, that the said master for the time being shall have power and authority to take recognisances of all and every person and persons

* A court of record.

† By the Statute of 33 H. 8, c. 22, the office of the liveries is annexed to the Court of Wards; so as now it is in the Court of Wards and Liveries.

Called by process.

persons that shall be called into the Court of Wards and Liveries, to answer to any matter alledged against them in the said court, to make their daily appearance in the said court, to answer to such matters as to them then and there from time to time shall be alledged; and that all such recognizances, of what summe soever they be, shall be as good and effectual in the law to all intents and purposes, as recognisances taken in the King's High Court of Chancery, or elsewhere, before any judge of record within this realm: And that the said master for the time being, with the advice of the court, or of such member of the same as then shall be present, so that they be two beside the said master, shall have full power and authority to moderate such recognisances as be or shall be there forfeited, and to set fines for the same to the King's use under the summes contained in the said recognisances, the said fines to be levied by like proces of scire facias, as by the statute made in the 27th yeare of our Sovereigne lord the King's reigne is given to the Chancelour of the Court of Augmentations of the Revenues of his Grace's Crown: And that the said master for the time being, with the advice aforesaid, shall have power and authority to commit to ward any person or persons for his or their disobedience, contempt, or other offence made, or to be made triable within the King's Court of the Wards and Liveries, and upon the said matters ordered or decreed there, to deliver them from prison, and to cancell and make void all recognisances and obligations taken or hereafter to be taken in the same court to the King's use when and as often as the said master, with the advice of the said court or three of them, shall see and perceive the matters and causes for the which any such recognizances or obligation hath or hereafter shall happen to be taken, to be finished and ended, and the King's grace, his heirs, and successors, or the party thereupon satisfied, without any other warrant for the same."

To moderate recognizances.

The authority of the Courts of Exchequer, Wards, and Duchy. A clause of the Statute of the 33 H. 8, c. 39.

* Assigned.

"And also shall have full power and authority to hear and determine all and all manner of debts, detenues, trespasses, accounts, reckonings, wastes, deceipts, negligences, defaults, contempts, complaints, riots, quarrels, suits, strifes, controversies, forfeitures, offences, and other things whatsoever they shall be, which shall hereafter grow, be moved, stirred, procured, pursued, or arise in or upon any matter, cause, or other thing,* assigned, committed, or appointed to the several directions, orders, and governances of the same courts, or any of them, or for or upon any manner of thing or things which may or shall touch or in anywise concern the same, wherein the King shall be only party. And also, all manner of states for tearme of years, between party and party, concerning the premises, and to correct and punish by their discretions all and every person and persons which before them shall be convicted of any of the premises, according to the nature, quality, or quantity of his or their offence or offences, cause or causes, matter or matters (all and all manner of treasons, murders, felonies, estates, rights, titles, and interestes, as well of inheritance as freehold, other then joynetures for tearme of life only excepted and alwayes foreprised)."

"Now are we arrived at the said Act of Parliament, in anno 32 H. 8, wherein, and in the statute of 33 H. 8, besides the exposition of the severall textes, we will observe what alterations these two Acts have made."

"Ordaineth, maketh, establisheth, and erecteth a court, &c.—Herein three things are to be observed: 1. That this new court could not be erected without an Act of Parliament. 2. That when a new court is erected, it is necessary that the jurisdiction and authority of the court be certainly set down. 3. That the court can have no other jurisdiction than is expressed in the erection, for this new court cannot prescribe."

"A court of record; where it is to be noted, that albeit the proceedings in this court be in English, yet it is a court of record by expresse words of the Act."

"And shall have also a seale, &c.—This is also necessary to a court.

"That all wards, &c.—This clause extendeth as well to the counties palatines of Lancaster, Chester, and Duresme, as to any other the parts of the realm of England, but in several manners. For as to the wards within the realm of England (out of the said counties palatines) the writ for the finding of the office, &c., issueth out of the Chancery of England, returnable in the Chancery of England.† And as to the wards in the counties palatines of Lancaster and Duresme, the writ likewise issueth out of the Chancery of England, but is returnable into the chancery respectively of these two counties palatine, and the chancellors thereof are to transcript them into the Court of Wards."

"The statute of 32 H. 8, for erection of the Court of Wards, extended only to wards, but the statute of 33 H. 8 annexeth to this court liveries also. Now, in what cases the heire shall be in ward or sue his livery, either by the common law, or by the statutes, and specially of 32 H. 8 and 34 H. 8, &c., and all incidents to the same, you shall reade plentifull matter, both in the First part of the Institutes, cap. Escuage and cap. Service de Chivalier; and also in the book of my Reports."

"Which the king's highnesse, &c.—Although successors be not here named, yet King's hignesse being spoken in his royall and politick capacity, which never dieth, doth extend to his successors, otherwise this court had been dissolved by the demise of H. 8."

"And that the master of the said wards.—By this clause the master only hath power to award process."

"Such proces and precepts, with reasonable pains therein limited, as be now commonly used

† *Vide* Rot. Parl. 9 R. 213, the resolution of all the judges of England, what right the Duke of Lancaster had to the wardship of Isabel, the heir of Thomas of Lathom, whom Sir J. Stanley had married, for the manor of Lathom, holden of him in chief, as of his County Palatine.

used in the court of the Duchy Chamber of Lancaster, being at Westm.* Note, the Duchy of Lancaster was created a county palatine by Act of Parliament, in anno 50 E. 3, *Adeo plene et integre sicut comes cestriæ infra eundem com. cestriæ dignoscitur obtinere.* And hereupon the Court of Wards is well warranted to be a court of equity; and accordingly from the erection hereof it hath proceeded.

* *See* more hereafter, in the chapter of the Court of the Duchy of Lancaster.

"Also, be it enacted, that the said attorney, receiver-general, and auditors, &c.—The judges of this court are the master, the surveyour, the attorney, receiver-generall, and the auditors of that court. For the words of the statute 32 H. 8 are, that the said attorney, receiver-generall and auditors, shall diligently from time to time attend upon the said master in the said court for the hearing and ordering of matters and causes, &c., and the statute of 33 H. 8 hath added the surveyor in the second place in that court, and albeit *honoris causa* they are to attend on the master as the chief and principall officer of the said court, for so he is stiled by both the said statutes; yet such attendance is for the hearing and ordering of matters and causes, &c., which maketh them judges. And see the oath of the surveyour which proveth his office to be judicial; for by the statute of 33 H. 8, his oath is (*inter alia*) that he shall minister equal justice to rich and poore, &c., and that he take no gift or reward for any matter depending, &c., in that court, and the like oath in effect taketh the attorney, the receiver-generall, and auditors, by the said Act of 32 H. 8. And so it was resolved in Auditor Curle's case, when Robert Earl of Salisbury was Master of the Wards and Lord Treasurer of England."

Hil. 7 Jac. lib. ii., fo. 2 and 3, in Auditor Curle's case.

Passing from the comments on the Court of Wards to the following cap. 36 of the same Institutes on the "Court of the Duchy Chamber of Lancaster, at Westminster;" it begins by stating, "For as much (as it hath been said) the Court of Wards hath some reference to this court of the duchy, we thought it fit to treat on this court of the duchy next after the said Court of Wards, for that it may give some light thereunto. Now for that the county of Lancaster is a county palatine it shall be necessary to show the beginning and erection thereof."

After entering fully into the origin and continuation of the duchy, it is stated that, "It is enacted, that all the mannors and hereditaments which descended to H. 5 after the decease of the said Mary, his mother, as son and heir unto her, should be dissevered from the Crown of England, and annexed to the Duchy of Lancaster, and to be of the same nature, as by the King's letters patent, established by Parliament there appeareth, where you may read of many franchises and liberties belonging to the duchy."

Rot. Par. Anno 2 H. 5, pa. 30; 3 H. 5, pa. 15, confirmed, and that no land should pass of duchy, but under the duchy seal; 2, 3 Ph. & Mary, c. 20.

"* Here it is to be observed that albeit these possessions descended to King H. 5, as heir to his mother, yet he was thereof seised *in jure coronæ*, and therefore this Act dissevereth them from the Crown."

* *See* the 1st Part Inst. sec. 8.

"† The Duchy of Lancaster, as separated, &c., is by Act of Parliament assured to E. 4 and his heirs Kings of England. By this Act, all intails of the duchy, or of any land annexed thereunto are cut off, and by this made fee-simple to E. 4 and his heirs Kings of England.

† Rot. Par. 1 E. 4, pa. 26. Pl. Com. 222. *Vide* li. 5, f. the Prince's case.

"In an Act of Parliament without question this limitation of a fee-simple is good.—See the whole Act.

"‡ It is enacted that H. 7 should have, hold and enjoy to himself and his § heirs for evermore the county palatine of Lancaster, and all honours, &c. By which Act also all former intails are cut off, and in this state doth the duchy stand at this day.

‡ Rot. Parl. 1 H. 7.

"‖ All lands, &c., parcel of this duchy given to the king by this statute of monasteries, chanteries, are still within the survey of the duchie. Within the county palatine of Lancaster, the Duke having *jura regalia* his jurisdiction and priviledges thereon were very great.

‖ 32 H. 8, c. 20; 1 E. 6, c. 14; 1 El. c. 31.

At page 206 it is recorded that "lands within the county palatine should passe by the Duke's charter without livery of seisin or attornment, but of lands, parcell of a mannor annexed to the duchy without the county palatine, there ought to be liberty of seisin and attornment of tenants, and in the same degree is it in the King's case. The reason thereof is that the county of Lanc. was a county palatine, and the Duke then had *jura regalia.*

21 E. 4, 60. 71. Pl. Com. 219.

"¶ The proceeding in this court of the Duchy Chamber at Westm. as is in a court of chancery for lands, &c., within the survey of that court by English bill, &c., and decree; but this chancery court is not a mixed court as the Chancery of England is, partly of the common law, and partly of equity, as hath been said; see before, in the chapter of the Court of Chancery."

"The processe is by Privy Seal, attachment, &c., as in the Chancery.

"The officers of this court to be the Chancellor, the attorney, the receiver-generall, clerk of the court, the auditors, surveyors, the messenger. There is an attorney of the duchy in the Chancery, and another in the Exchequer. There be four learned in the law assistants, and of councell with the court."

It has been said by the clerk of the council to me, that this was no authority for the auditor being a member of the court, as it was an absurdity to suppose that the messenger should sit at the council. The argument he sets up in this case is wrong by the assumption first,

§ *Note.*— His heirs without saying (Kings of England) as E. 4 did; 21 E. 4, 60. *Vide* Die. 1 El. 168. 6.

¶ *Vide* 33 H. 8, c. 39, which see before in the chapter of the Court of Wards, section 27 H. 8, c. 11. There also is a Chancellor of the County Palatine.

Appendix, No. 5.

first, that because the messenger is mentioned as an officer of the court, together with the Chancellor, attorney, surveyor and auditors, that, therefore, the quotation implies he is a member of the council, as this part of the Commentary had reference to past enactments, and by those statutes, the Chancellor, attorney-general, surveyors, and auditor had functions assigned to them in the court, while the messenger had not, and although he was an officer of the court, yet his duties were not within but out of the court. It must be observed also, that the word messenger in this case must not be taken in the present acceptation of the word as a messenger to carry sealed documents; but in reference to the duties of the messengers of the Court of Chancery who put into effect the orders of the court in taking possession of messuages or property under an order of, and for the court; and in these cases the messengers are sometimes solicitors or attorneys.

The opinion, therefore, of the Commentator on the Duchy Court of Lancaster confirms what was previously established respecting it by his comments on the Court of Wards, without at all being impaired by his allusion to the messenger as an officer of the court, while the others of the court have not only been established as officers of the court in their respective capacities, but also judges of the court when acting jointly, as they are required to do on subjects relating to the property of the duchy.

After the reference to the foregoing authorities, it might be unnecessary to adduce further proof, but it is right that I should, for other reasons, advert to that which has been set up as a ground for depriving the auditor of his power of check.

In the "Observations," by the clerk of the records, on "the points on which the auditor desires information," the question is stated thus: "In what respect (if any) does the duchy court differ from the court of the Chancellor and council?" He then proceeds to answer it by saying: "If I have rightly apprehended this question, the object seems to be to inquire what is the distinction between the duchy court as a court of equity, and the duchy court as a court of revenue." To this it may be answered: "That they are one and the same in their origin and constitution, and differ only in their functions and use. They are both of equal authority and equal antiquity, and date at least from the first institution of the duchy."

It would therefore appear on due authority, that as the auditor was a member of the court, and as the court and council of the duchy are the same, that therefore the auditor is a member of the council.

The clerk of the records further states, with reference to the court, that "its existence has been repeatedly recognised by the Legislature." It is therefore submitted that the auditor cannot either be displaced or divest himself of his functions as a member of the council without an Act of Parliament.

Next, as to the latter part of the first position that I should be obedient to the council, (*see* the letter of the clerk of the council, dated 19 December 1854,) upon which it is assumed that the auditor is not to exercise an independent judgment; it appears only necessary to state from where that is derived, and to quote it to show its misapplication; namely, "the auditor's oath." "Ye shall swear that you shall well and truly serve our Sovereign Lady the Queen and her heirs in that office, that ye now be admitted unto us auditor of the Duchy of Lancaster, and be obedient, diligent, and attentive unto the council of the same in all things as shall concern the weal, profit, and good governance of the said duchy; * * * and ye shall also keep secret all such things as ye shall hear spoken and communed in the council of the said duchy, and the same in no wise to discover nor make open to any other person than only to the Queen's own person or such other of the said council as ye shall be commanded to do. All these things and all other that appertain to your office and charge, ye shall well and truly do and perform after your cunning and power."

The form of this oath (which is of ancient origin) at once points to the auditor as being in the council, and the being obedient, diligent, and attentive, has reference to his own functions and duties as auditor, and a member of that council in reference to the weal, profit, and good governance of the duchy, and not to any blind obedience to the Chancellor and council as a Board; for, in the first place, the Chancellor is not mentioned, while in all Acts relating to the management of the duchy, the council have never been mentioned without the Chancellor. Secondly, the allusion to the "weal, profit, and good governance," evidently calls for his discretion on points of government, to which no reference would have been made had a tacit obedience been required by the oath from the auditor. Neither is the oath administered to serve the Chancellor and council, but to "well and truly serve * * the Queen;" and concludes by stating that all the things which appertain to the office and charge of the auditor, shall be performed after his cunning and power.

2. With reference to the second position that the double signature of the auditor implies merely that the bill is prepared according to the minute of the court, with which it is not his province to interfere or to check the valuation of the property.

It must first be borne in mind that it has been shown, in reference to the first position, that the auditor is a member of the court by virtue of his office, and that all the previous auditors sat as members of the court or council, and no auditor was ever excluded from it until I was appointed, and, therefore, no precedent can be quoted to show that the auditor's signature has been attached to bills for grants of the duchy inheritance without that signature carrying with it the testimony of a due check having been exercised against the property being parted with for less than its value.

By

By the accompanying "Observations" by the clerk of the records, the following appears to have been the practice which has led to the signature of the auditor for bills for grants in fee of the duchy property; viz., the surveyor made his report, which was submitted to the auditor. The auditor made out a "particular," grounded upon that report, and signed the "particular." *

"Upon the particular signed by the auditor," the Chancellor gave directions to the clerk of the council to prepare the bill.

Until the year 1844, the bills were signed by the clerk of the council, and "his signature vouched, therefore, for the agreement of the premises mentioned in the bill, with the auditor's particular of the same."

It therefore is evident that as the office of auditor is one of record and check, so far from the auditor being a passive agent of the Chancellor and council, his functions upon the report submitted to him and testified by his signature to a "particular" of what he might pass in such report, in point of fact formed the basis of the bill and constituted the authorised premises of it. This appears fully borne out by the following paragraphs in the observations by the clerk of the record:

"The Queen's signature implies her confirmation of the proceeding for passing the grant, and the Chancellor then authorises the clerk of the council forthwith to prepare and seal the grants."

"I am not able to refer to any prior Act or minute of court authorising the affixing the signature of any officer to bills for grants in fee or otherwise."

"It would, indeed, seem to have arisen from the necessity of the case, and to have been coeval with the establishment of the duchy, that the Chancellor should require some voucher that the bill corresponded with the particulars upon which it was prepared, and the signature of the clerk of the council by whom the bill was prepared, and of the attorney-general by whom it was settled and approved, would, therefore, obviously have been necessary." Thus showing that the Chancellor did not consider himself warranted in submitting the bill for Royal assent without the evidence of the clerk of the council (by his signature to the bill) that it was in conformity with those particulars which had been passed by the auditor.

The clerk of the records says, in the first page of his "Observations:"—

"This practice prevailed until April 1844, when the signature of the clerk of the council was discontinued, and the auditor's name directed to be affixed."

In the second page of the same document he continues to say:—

"Now, however, that the complicated machinery of the particular has been superseded by the simpler process of a minute of the court framed upon the surveyor's report, it is obvious that the auditor's signature to the bill and certificate should be affixed as his voucher that the bill is framed in accordance with such minute. The process thus becomes complete without the intervention of the useless and expensive detail of the auditor's particular, and an equal security is afforded against any discrepancy between the particulars recited in the bill and the premises intended to be granted according to the minute of the court."

It must be borne in mind that the alteration in the manner of passing the bills was merely a simpler mode of effecting the same object without changing the check or principle upon which the bills were framed, because, as the auditor had never been prevented from taking his seat at the council, the dispensing of the auditor's "particular" was covered by his signature at the foot of the bill as approving (in a more direct manner as a member of the council) of the surveyor's report, which would otherwise have been subject to the withholding of the auditor's signature to the "particular," and the necessity of his signature to the certificate at foot of the bill, stating that the bill had been prepared pursuant to a minute of the council, arose from the obligation of vouching that the check dispensed with by not producing the particular had been equally effected by the exercise of his functions at the council.

The alteration of the mode of passing the bills in 1844, which then produced no fundamental change in the constitutional management of the duchy property has, by the subsequent exclusion of the auditor in 1854 from his place in the duchy council, operated in a most unconstitutional manner against the functions of his office, and the safeguards thereby existing since the earliest establishment of the duchy to the property as an inheritance of the Sovereign. It is, therefore, respectfully submitted that this error ought to be rectified without delay.

In conclusion upon this point, it seems advisable to advert to the evidence of the clerk of the records, that the duchy court as a court of equity and a court of revenue, "Are one and the same in their origin and constitution, and differ only in their functions and use." And to point out at page 5 of his "Observations," he says, that "to the court of revenue belongs more particularly and immediately the control in matters where the interests and management of the duchy estates and revenues are affected."

The auditor being (as already shown) an officer of this court, whose duty it is to check both the revenue and expenditure from the duchy estates, his functions are therefore

* *Vide* Act of 19 Geo. 3, c. 45. Schedule of fees for "particulars," &c., for grants, &c., showing that the process was acknowledged by Act of Parliament.

Appendix, No. 5.

fore inseparable from the proceedings of the court by which "the interests and management of the duchy estates and revenues are affected."

The third position, relating to the powers of the Chancellor, is one which I should not have presumed to touch upon, had it not been assumed as a ground from which the powers and functions constitutionally appertaining to the auditor as checks and safeguards to the property of the duchy, as an inheritance for the Sovereign, have been reached at and disturbed, and, therefore, by the tenor of my oath, to well and truly serve the Queen, I find it imperative on me to allude to the subject.

In support of the assertion by the clerk of the council that the auditor is to be obedient to the council (upon which statement an inference is raised that I am to divest myself of my functions of check) and take the minute of the Chancellor as my authority for signing the bills for grants from the duchy inheritance, instead of my signature to the bills having the same effect as the "particular" upon which the bills were formerly prepared, it is stated that "the Chancellor of the duchy presides, and is supreme alike in the court of equity and court of revenue; that the Chancellor and council of the duchy is a mode of expression generally employed to signify the governing body in regard to the possessions of the Sovereign. *Jure ducatos* in contradistinction to the Treasury or other department of the Crown revenues when referred to in regard to the management of the estates and revenues *jure coronæ*. The Chancellor, however, is in effect the absolute head and ruler of the establishment; he acts either alone or with the assistance of the council whose advice he calls in at pleasure, or when any matters of more than ordinary solemnity are to be discussed and treated of; but in those councils he invariably presides and has the veto, and in all transactions of ordinary occurrence his authority is absolute and is exercised without reference to the council."

As no authority is quoted by the clerk of the records for these premises, I wish first to state that most undoubtedly when the Chancellor presides in the court of equity or revenue, he is supreme; but he appears there as a judge, and, therefore, that his powers are supreme in defining and administering the law, but that the functions and powers of a judge do not extend to those of legislation by which the law is made.

Then with respect to the Chancellor and council being the governing body of the duchy, that statement is also in abstract correct (although not so in its application to the point adverted to), for it has been shown with reference to the first position, that the Chancellor, the attorney-general, the auditor, and the clerk of the council, were in their respective capacities distinct, and had separate functions to perform with reference to the preparing of bills which were passed at the court of which the Chancellor, the surveyor, the attorney-general, and the auditor were judges, and the clerk of the council was the officer.

I must here, in the first instance, revert to the quotations from Court of Wards and Liveries, cap. 35 at page 247 of this memorandum, showing that the court could not act without a quorum of three of its members as judges where property had to be disposed of, and secondly to Act of 48 Geo. 3, c. 73, which is referred to and quoted in bills for grants from the duchy property.

By section 9 of the last-mentioned Act, which relates to duties of a purely ministerial nature, namely, the enrolment of a lease or assignment (being a deed already passed by the court), the Chancellor or surveyor-general are allowed to act singly for the auditors of the duchy; but in every clause relating to the sale of property, or where powers of governing are given to the Chancellor, it is invariably provided (in conformity with the constitution of the court, as appears by the ancient statute before alluded to) that the order shall be given by the Chancellor and council (*i.e.*, court) who are spoken of in the plural number (*vide* sects. 9. & 28) while certain duties are by the Act assigned to the surveyor-general who is obliged to report to the Chancellor and council.

The 9th section alluded to, requires "that all sales made under this Act of the property hereinbefore described, shall be made in the same manner and form, and under the rules, regulations, and provisions, * * * as if the same had been made under the Acts of 38 and 42 of his present Majesty (Geo. 3.)"

The Act of 42 Geo. 3, sects. 116 and 139, sanctioning the sale of the duchy lands, under certain conditions, enacts that it shall be done by the Chancellor and council. This clause specially points to the officers of the duchy, as having a survey of the duchy, and in the Schedule (G.), to the Act by which the form of deed, for the sale of lands belonging to the duchy is prescribed, the Sovereign in making the grant uses the following terms, namely: "By and with the advice and consent of our Chancellor and council of our said duchy," and in no part of this Act of Parliament is sanction given to the Chancellor to act singly.

The Act of 48 Geo. 3, c. 60, sects. 52 and 53, relating to the same subject, are also framed in accordance with the same principle.

The foregoing statutes also define the duties of the surveyor-general, in the transfer of property, and require all the proceeds of sales of the duchy inheritance to be invested as capital in the Government funds or the purchase of lands, and it is one of the special duties of the auditor to see that this is done.

The Chancellor may therefore be the head and ruler of the duchy, provided it be within the limits of the law, and in accordance with the constitution of the duchy; but it is wrong to state that legally "his authority is absolute, and is exercised without reference to the council." If he had legally an absolute power, he could repeal the Acts of the Legislature, and if authority has been used, as stated, it can only have been in direct contravention to those enactments which from time to time have been made to limit the power of the King or Queen, and to secure to the Sovereign the inheritance of the duchy property by means of a safe and perpetual trust, secured by duly constituted checks.

Lastly,

Lastly, with reference to the constitution of the council itself, it is stated by the clerk of the records, that "The members of the council are selected and nominated by the Chancellor and approved of by the Sovereign,* and everything that is done with relation to the affairs and management of the duchy is presumed to be done by the Sovereign with the advice of the Chancellor and council of the duchy, without interference or control from any other quarter whatever."† Appendix, No 5.

I first have to observe that there is an important omission in the above statement, namely, that what is done, is not only with the advice, but also with the consent of the Chancellor and council, for wherever and whenever the Sovereign takes part in anything that is done, the word consent is always inserted, pursuant to the form prescribed by Act of Parliament. Neither is it correct to say, that everything that is done is presumed to be by the Sovereign, unless it be meant to convey that the act is by the Sovereign as head of the State, and not as inheritor of the duchy estates, for in every one of the clauses of the Acts referred to, the power is given to the Chancellor and council to sell, &c., on behalf of the Crown, and to the surveyor-general, to exchange on behalf of the Sovereign, while the Sovereign is never mentioned as taking a part in such proceedings; clearly showing that the property is in trust for the Sovereign, and therefore not vested in the King or Queen; but that the Sovereign takes part in the act, as the head of the State, acting for the King's or Queen's private inheritance.

The clerk of the records does not distinguish between the members of the council being so by virtue of their offices, as before stated, and those noblemen and gentlemen, who are at present assumed to form the council.

Prior to the year 1845 no steps were taken to introduce any other members of the council than those constitutionally authorised to act with reference to the property of the duchy.‡ All the Acts of Parliament referred to as authorities for making grants in fee, &c., which call upon the council to act with the Chancellor, have legislated for the council as then constituted, nor is there any Act of Parliament which sanctions the introduction of any other parties to the council § for the management of the property in trust for the Crown. The parties who have been introduced do not even hold any patent from the Queen authorising them to act, but they are merely sworn in by the Chancellor; under what constituted authority does not, however, appear.

§ *See* Mr. Danvers's letter of 22 January 1855.

The exclusion, therefore, from the council of management of those officers of the court of the duchy, who legally constitute it, and who have respective duties to perform with reference to matters to be finally passed at their council, and the introduction of members in their place who have no legal authority to act, nor offices to perform to give them a knowledge of the details of the affairs of the duchy, have been the means to assume (for the Chancellor of the duchy) that absolute power over the property which was taken by Parliament from the Sovereign, and placed in the constitutional body of the council of the duchy as it originally existed, to discharge the duties of a trust for the persons of the King or Queen.

The operation of these unconstitutional proceedings, together with the frequent changes of the Chancellor, the exclusion of the only officer of check from the council of management, and the performance of the duties of the receiver-general by a clerk in the duchy office, who is under the clerk of the council, have been to cut off from the Chancellor and council for the time being all those sources of information (except the clerk of the council) which should be open to them respecting the property before any minute of the court is made, for the sales or leases of the duchy inheritance, and consequently the real effect of the changes, or rather innovations which have taken place, has been to place in the hands of the clerk of the council, the moving of that absolute power which is claimed for the Chancellor.

It is under these circumstances that, while excluded from the council I have, as auditor, been called upon to sign the deeds for the sale of land, &c. from the Royal inheritance, for sums decided upon without my knowledge.

These documents were sent to me for signature in the first instance without even my seeing the minute directing such grant to be made, or indeed without the order having been signed by the Chancellor; and afterwards, in another case, upon the production of a minute passed

* The clerk of the council has stated to me that the Queen took no part in the appointment of the members of the council, and that they were such noblemen and gentlemen as the Chancellor thought fit to call to his advice.

† See Act 34 Geo. 3, c. 75, s. 20, showing that the council is not the Chancellor, and that the other officers have powers, &c. Also, 48 Geo. 3, c. 73, ss. 29 and 30.

N.B.—See the patent by the Queen, also the form of Act for grants in fee, prescribed by Act of Parliament, for example, in 19 Geo. 3, c. 45; Form of grants. *Idem.*—Form of deeds of conveyance &c., 38 Geo. 3, c. 60. (Schedule E.) Form for sale of lands. 42 Geo. 3, c. 116. (Schedule G.) Form for sale of lands.

‡ The order for the auditor to sign the bills themselves for the sale of the property, instead of giving his prior assent by a "particular" was in 1844.

Appendix, No. 5.

passed in the name of the Chancellor and council, but being that of the Chancellor only, at the same time, as I was prevented from exercising in the matter the functions of check which have appertained to the office of auditor from the earliest constitution of the duchy as a trust property for the Sovereign, and which checks have been recognised by Act of Parliament.

It therefore appears to me (but with great deference to the Chancellor and council of the duchy), that the exclusion of the auditor from his seat at the council is an unprecedented circumstance, depriving him of the powers which are necessary to discharge the duties belonging to his office.

That as the auditor is an officer whose duties have constitutionally existed from the establishment of the duchy, his office cannot be interfered with without trespassing upon the prerogative of the Crown by which it was instituted, and acting in contravention to the authority of Parliament, under which certain duties of trust devolve on him.

That it has been incumbent on me, as a faithful subject of Her Majesty, and by my oath as auditor of the Duchy of Lancaster, to serve the Queen well and truly, and to the best of my power, to make the inquiries above alluded to.

That I am in duty bound to record the result of those inquiries, with a view to remove the impediments which may exist to the faithful and full discharge of my duties, or should I be wrong in any of the facts therein stated, that I may be corrected by its being pointed out, under which enactment by Parliament the prior laws on the subject have been amended or repealed, the functions of the auditor restricted, or his duties altered or regulated.

10 March 1855. (signed) *F. R. Bertolacci.*

Appendix, No. 6.

Appendix, No. 6.

COPY of MEMORANDA made on the Heading of the Receiver-General's Account for 1854.

Memorandum.—This account has to-day for the first time been exhibited to me. It has been shown to me on my asking to see where the Receiver-general took credit for the sum of 319*l.* 7*s.* 6*d.*, appearing in the fund as transferred by him.

4 June 1855. *F. R. B.*

Mr. Bertolacci was informed on the 16th of May, in the presence of the Chancellor, that this account had been prepared, and the Chancellor urged upon Mr. B. the examination of the previous account, viz., that for 1853.

5 June 1855. *Josh. H. G.*

Appendix, No. 7.

LETTER from *F. R. Bertolacci,* Esq., to the Earl of *Harrowby.*

Appendix, No. 7.

5, Cornwall-terrace, St. George's-road, Pimlico,
19 May 1855.

My Lord,

In obedience to your Lordship's commands that I should, before proceeding with the examination of the accounts, submit a statement to you of the subjects which came under discussion at the interview with which your Lordship favoured me, on the 16th instant (so that you might give me your orders in writing against them respectively) I have the honour to enclose the accompanying memoranda of nine Questions, then referred to, and, in accordance with your Lordship's desire that I should add any others that might occur to me, I have taken the liberty to put a tenth question on the paper.

I have stated in each case the premises then alluded to, to bring to your Lordship's recollection the points on which it was supposed the subjects depended.

Immediately on receiving your Lordship's orders to deliver to the accountant the accounts for 1853, which I had retained in my possession (under the impression that thereby I would be able to exercise a more vigilant check) I sent them back to the office of the duchy. I hope, therefore, that you will consent to give an order that the accounts for the year 1854 shall no longer be withheld from me. My reason for making this request is to allow of my tracing separately each item of revenue and expenditure from the receiver-general's account of 29th September 1852, which was audited by my predecessor in May 1854, to the account for 29th September 1853, which he omitted to audit, and to the account for 29th September 1854, which has not yet been rendered to me, and which has to be audited preparatory to the return being made up for Parliament.

In the auditing of accounts, it is frequently necessary to refer to the similar entry in th previous account, and by the means I propose the whole of each transaction for the las three years would be simultaneously before me; repetition of reference would thus be avoided, and I conceive time and trouble might thereby be saved, which would allow of the account, for Parliament being made out sooner than it otherwise can be after the account of the receiver-general shall have been rendered to me.

I have, &c.
(signed) *Francis R. Bertolacci.*

The Right Honourable
The Earl of Harrowby, &c. &c. &c.

Copy of Enclosure in Mr. *Francis R. Bertolacci*'s Letter to the Earl of *Harrowby,* on 19th May 1855 (transmitting, by directions of his Lordship, the Queries in writing to him which Mr. *F. R. Bertolacci* had made *vivâ voce* at the interview he had with his Lordship, at the Office of the Duchy of Lancaster, on the 16th May), in order that Answers might be afforded against each subject respectively: also, Copies of the Answers rendered (*en masse*) by the Letter from Mr. *Danvers* (the Clerk of the Council), on 6th June 1855, but herein copied against them respectively; with explanatory Notes thereto, by Mr. *Bertolacci.*

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19 May 1855.

Questions relating to the Auditing of the Accounts of the Duchy of Lancaster, prepared by order of the Right Honourable the Earl of *Harrowby,* Chancellor of the Duchy, &c. &c. &c.

Questions.	Answers.	Notes.
No. 1. The payment of salaries to stewards, bailiffs, and others in the country (which in many cases are for nominal services, and for the salaries of offices held by patent for life), are not made out of money specially drawn for such purposes under an order of Court, but out of the half-yearly amounts received by the deputy of the receiver-general, when he goes into the localities to receive rents, who pays into the bank the balance only remaining in his hands. The warrants for the payment of such salaries are by a printed form on small pieces of parchment; the authenticity of such documents is by the impression of a small		

Questions.	Answers.	Notes.
die, which, by the statement made to me in September last by the gentleman who acts as deputy of the receiver-general (in collecting the rents, and making the payments in question) is kept in his possession. These warrants are produced to the auditor as vouchers on having the bare signature of a name purporting to be that of the party to whom the money is payable; but without such signature being attested by a witness to the affixing of the same, or the party signing the receipt, stating his profession, calling, or place of abode. Sometimes the receipt is given by another party than the one to whom the money is payable. The warrants alluded to are prepared in the office. The accountant who produces such warrants as vouchers after they are receipted, is the first clerk in the office of the Duchy, and the other clerks receive directions from him in the discharge of their duties.	Duchy of Lancaster Office, Sir, 6 June 1855. With reference to the questions relating to the auditing of the duchy accounts, which you transmitted to the Chancellor on the 19th ult., I am directed to inform you that the court have come to the following conclusion, viz.:	
What evidence am I to require on the following points:— First. That the party to whom the money is said to be payable, is still alive?	That the course adopted by the deputy to the receiver-general in paying certain salaries, stipends, &c., in the country out of the rents he receives at the audits (the warrants for such payments having been previously transmitted to the proper parties), is a safe and convenient method), and that the check upon the accountant is not diminished thereby, the receiver showing by a Dr. and Cr. account, substantiated by proper vouchers, the balance paid over to the bankers.	I asked what proof I was to require of the delivery of the warrants to the proper parties. The question is not answered. It was clearly stated to me in September 1854, by the deputy of the receiver-general, that he took the warrants with him to the localities, and that they were not generally transmitted to the parties by any other means. My question was, as to what was to be a proper voucher, without any evidence being afforded by a name of a witness or other proof on the receipt, that it had been given by the party to whom the money was payable.
Secondly. That the warrants have actually been delivered into the hands of the parties stated therein to be those to whom the money is payable?		
Thirdly. That the signature of the party to the receipt is a *bonâ fide* signature of the person for whom the warrant was issued, or of the party duly authorized by such person to receive the money on his behalf?	That the receiver having ascertained, for his own satisfaction and security, that the payments are made to the proper parties, it must be left to the auditor on his part, if any doubt exist in his mind on the subject, to make such inquiries as may be necessary to remove such doubts.	This is an evasion of the question, asking by what means I am to test the correctness of the signatures of the parties, since the attestation of a witness is refused to me. It will also operate in exposing me to the same charge as that which was brought against Mr. Kennedy in the Woods and Forests Office, namely, of questioning the integrity of parties without evidence for doubting it. So that by this means, the grounds of audit are thus converted from proof being afforded to the auditor into an obligation on the auditor to produce evidence for the accountant of the correctness of his vouchers, or pass whatever is put before him without question.
Fourthly. That the seal or impression on the warrant has been attached with the cognizance of the court, to whose authority I am to look for my protection in allowing the sums mentioned in the warrant to be debited against the duchy?	That all payments by these warrants, except those of an established or ancient kind (which the auditor has the means of testing at the Duchy Office) are previously authorized by a minute signed by the Chancellor.	By the information afforded me in the Duchy Office, the Chancellor had not been a party to the issuing of the warrants referred to. As the clerk of the council and the first clerk in the office are the parties whose cash transactions have to be checked by the auditor, he is dependent on them for the means referred to.
No. 2.		
I understand that it is not thought necessary that I should require the vouchers for payments made by the accountants to be attested by the signature of a witness. What evidence am I to require that the signature to the receipt is the handwriting of the party to whom the money is payable? And in case that a person to whom money may, or should have been	That your inquiry as to the evidence you are to require that the signature to the receipt is the handwriting of the party to whom the money is payable, &c., would apply equally to any receipt whatever in the common transactions of business, whether given by a tradesman, or any one else receiving money, and the laws relating to forgery must, as in other cases, be the safeguard.	Public accountants are required to have the payments by them attested by the signature of a witness. The question is not answered why any exception should be made in the case of parties acting as cashiers for the duchy. This is again an evasion of the question; I did not ask what would be the remedy in case forgery should be detected, but as the accountants refused to produce the

Questions.	Answers.	Notes.
been paid, should dispute the receipt of the money by him, by what means shall I be able to test the correctness of such denial against the contrary assertion of the accountant, by whom the voucher may have been tendered to me as a discharge both of his own liability to the duchy and that of the duchy to the other party?		the evidence of a witness to the signature to the receipt for money paid by them, by what means I was to guard against false signatures being produced.
No. 3. If the accounts and vouchers which I shall pass are to be deposited in the office, and thus be in the possession of the parties over whose proceedings I am in discharge of the duties of auditor, to be a check, by what means am I, 1. To guard against the possibility of any alteration in the sums stated in those accounts which, by the regulations given to me for my guidance, are to be made the basis of the charge side against the receivers in future accounts? 2. If, as is unusual with auditors of public accounts, the accounts and vouchers which I shall pass are to be taken out of my charge, what evidence am I to have for my protection in case of questions arising as to the sums I may have admitted as correct, either on the credit or debit side of the accounts of the receivers or their accountants?	That the means by which you may guard against the possibility of any alterations in the sums stated in the accounts, which are to be made the basis of the charge side against the receiver in future accounts will be by not admitting figures written upon erasures (if any) without referring to authorities or vouchers, and that the auditor's protection, in case of questions arising as to sums he may himself have admitted as correct, may be by placing his initials, or any private mark, against the sums he has so admitted.	This is no safeguard where arrears of rent have been recorded, and it will involve a continual reference to past accounts, and a re-checking of their balances to see whether the erasure is borne out by the discharge of the balance. The erasures I have noticed in the accounts requires this point to be clearly settled.
No. 4. According to the present system of receiving money due to Her Majesty in regard to her Duchy of Lancaster for rents, grants in fee, and enfranchisements, abatements from such sums are sometimes made for the interests which individuals have in the property, the amounts of which abatements may not have been defined by a minute of the court; what means am I to adopt in auditing the accounts (yet to keep myself within the limits of a purely ministerial officer) to ascertain that such abatements are admissible, and that their amounts are correct?	That the responsibility respecting sums allowed to purchasers of land, &c., for any interest they may possess by virtue of leases or otherwise must rest with the Chancellor and council, and not with the auditor, and that, where the amounts of the abatements have not been specified by a minute, the auditor is at liberty to make such inquiry as may establish the correctness of the same.	The first and second parts of this paragraph are contradictory; and how is the auditor to be purely ministerial (as it is desired by the Chancellor he should be) if he is to question the correctness of the amounts deducted where the court have not stated them. This again shows that the object is to prevent the auditor from exercising any actual check, but to throw on him the responsibility of any irregularities which may arise by not giving him any positive instructions on the point in question.
No. 5. The system by which the arrears of rent on an account appear to have been ascertained has been by comparing the arrears therein shown with the arrears appearing on the previous account, and if less in the latter, charging the accountant with the difference; if greater in the latter, giving him credit for the difference, and, in a similar manner, increasing or lessening the several items of rents in arrear. The accounts by which this process has been worked have been made out with reference to rents having fallen due on 29th September in each year; but as payments made two or three months subsequent to the 29th September in each year have been included in the account up to that date (without any stated day to correspond in each year having been fixed for striking the balance against the accountant of the sums received and paid by him), What means am I to take to ascertain, 1. That any arrears do actually exist? 2. That arrears which have been paid between the periods at which the accounts have been rendered have been brought to the credit of the duchy as soon as such arrears have been discharged by the tenant, &c.?	That with respect to your inquiry as to the existence of arrears up to a certain period of the year, it having been arranged by the Chancellor that a fixed day (say 21st December) in each year should be settled for striking the balance of the receiver-general's account, it is unnecessary to go into this question; that with respect to your inquiry as to the mode of ascertaining that the arrears paid between the periods at which the accounts have been rendered, have been brought to the credit of the duchy as soon as such arrears have been discharged by the tenant, it is for you to satisfy yourself by the means ordinarily adopted by any auditor of accounts, that such arrears have been duly brought to account.	On no fixed day has the accountable party hitherto made up his account; and if the 21st December has been fixed upon by the Chancellor as the date for closing the yearly accounts, that decision must have been made since the date of my question. But this is no answer to my question. This is the system alluded to by Mr. Stephenson, as that by which considerable defalcations had occurred in a case which had come under notice of the Treasury. Supposing that the date on which the accountant made up his account (for 29th September 1852) was on 1st November 1852, and that on 2d November 1852 a sum was paid, how is the auditor to know anything of the payment until the next year? and suppose that the account for 29th September 1853 be made up on 30th October 1853, so as not to bring to account the payment which would be made in November 1853, then, by a comparison of the two accounts, to ascertain the

Questions.	Answers.	Notes.
		the arrears on the latter, the comparison will be made with a larger sum in the former than that which was in arrear for the intervening period. The effect of this mode of account and examination would be to leave unaccounted for in the hands of the accountant for a whole year the rent paid to him on 2d November 1852, and to repeat the process the following year.
No. 6. The book in which are entered in abstract the leases and other items of regular income, has been professedly compiled by the party who collects and receives the rents, makes payments for the receiver-general out of such receipts, and renders an account thereof to the auditor; this book is called the "State of Revenue." In the examination of the account rendered, am I to receive the entries in this book as sufficient evidence of the sums put in charge of the receiver-general, and to be accounted for by the accountant either as having been paid to him, or as remaining in arrear?	That it will be proper to have the book called the "State of Revenue," which sets forth the rents payable by the duchy tenants, verified by the certificate of the clerk of the records, as well as by the first clerk in the Duchy Office, so that the auditor may have before him this certified book as a guide in checking the receiver's account.	The clerk of the records is an officer dependent on the pleasure of the Chancellor and council, of which the receiver-general is a member. The first clerk is the deputy of the receiver-general. The auditor is therefore at the mercy of those whom it is his duty to check for the correctness of the evidence upon which he has to charge them with the sums they should be debited with, according to the system by which the duchy accounts are rendered.
No. 7. The yearly statement of account of the receiver-general, which has been submitted to the auditor, has not (speaking from memory, as the accounts are not before me), shown the dates on which the deputy-receiver had received the sums collected by him, nor the channel, nor date of the transmission of the amounts to the bank. Is the Auditor at liberty to require from the bankers such information, in order to check the amounts which may be in the hands of the receiver-general, or of his deputy?	That the auditor should have access, as heretofore, to the bankers' pass-book, which exhibits the amounts and dates of sums received and paid by the bankers, but that it is inexpedient and unnecessary, as well as unusual, that the auditor should put himself in correspondence with the bankers in the way you named.	There are duplicate pass-books of Messrs. Coutts' Bank at the Duchy Office. If the auditor is not at liberty to test the balance by communicating with the bankers, he is without means of testing the fact that the pass-book is genuine.
No. 8. The accountant has told the Chancellor of the duchy that it would "occupy a year" to establish the charge side of the account by a perusal of all the original leases, or their enrolment. It has also been stated that such leases are subject to certain items of drawback or allowances to the tenants, variable in their amounts. The enrolments are made by entries in a book kept in the office, of which the party making out the account is the first clerk, and from whom the other clerks receive directions. Am I to be satisfied of the correctness of the sums with which the accountant charges himself as having been received, if they correspond with the similar entry in the preceding account, or am I to look for other evidence for their authenticity; and if so, of what test am I to avail myself?	That the test as to the correctness of the sums with which the accountant is charged when the "State of the Revenue" does not establish it, must depend upon circumstances; and, that if the auditor have reason for supposing that errors exist in the charge side of the account, he can have recourse to the necessary documents for satisfying himself on the subject. That the starting point at which the Auditor should take up the accounts, should be from accounts last audited and passed, and that the arrears, except where they have been paid up or discharged, should be carried on from those accounts. That the receiver should make a declaration as to all arrears which he deems irrecoverable, with a view to their being discharged from future accounts.	This is undefined and evasive. This is a direct manner of preventing any check on the arrears of rent which may have been received, and not accounted for.
No. 9. The bills for grants in fee from the hereditary estates of the duchy, are signed by the auditor in two places— 1. He signs the bill itself, in which it is stated that the sum therein mentioned is the best price and consideration money which can be procured for the property parted with; to this signature he is required to affix the word "Auditor." 2. He signs the certificate at the foot of the bill, stating that the bill has been prepared in pursuance of an order of the Chancellor and council. It appears, by the researches of the clerk of the records of the duchy, that the bills for grants in fee were originally drawn up after the production to the clerk of the council of a document called a "particular," which was made out by the auditor on his inspection of the report,	That with regard to the signing of the bills preparatory to grants in fee, it is expedient that the signature of the clerk of the council should be subscribed thereto, as was formerly the case, with that of the attorney-general, and that the signature of the auditor should only be required with that of the attorney-general to the certificate at the foot of the bill.	The effect of this is, 1st. To remove the check of the auditor over the surveyor's valuation of the property, and on the clerk of the council signing bills without the "particular" being previously drawn up by the auditor. 2d. To place the clerk of the council in the position of the auditor; and, 3d. To make the auditor's signature subservient to that of the clerk of the council, instead of the clerk of the council's signature being the attestation to the bill that it had been prepared pursuant to the "particular" drawn up by the auditor, as shown to have been the practice by the memorandum by the clerk of the records, transmitted to me in Mr. Danver's letter of 31 January 1855.

Questions.	Answers.	Notes.
report, and valuation of the property by the surveyor; that the auditor did not sign the bills, but that the clerk of the council signed them, to certify that what was therein stated was conformable to the auditor's "particular." By a minute of the council in latter years it was decided that the "particular" should be dispensed with, and that, in lieu thereof, the auditor (who had then a seat at the council) should sign the bills. The present auditor has been excluded from the council, and therefore is not a party to the decision to part with the property; the "particular" is still dispensed with; he therefore is not allowed to exercise any check on the valuation. The agreement on the part of the duchy is made with the purchaser to sell him the property, and the minute of the Chancellor is made directing the bill to be drawn, without the auditor now having any pre-knowledge of the matter. He is then called upon (without being allowed any discretion whether he should sign the bill or not) to attach his name in two places, as before stated. The interpretation now put by the Chancellor and council on the first signature (he is desired to attach to the bill) is, that it conveys no more than the second, although there is nothing on the face of the bill to show that he no longer has the pre-knowledge of the matter which was possessed by his predecessors in office, by their having been members of the council. It is submitted (with the permission and by the desire of the Chancellor) for reconsideration, whether the auditor should sign in the first place the bill itself, as well as in the second place the certificate to the bill?		
No. 10. In the Acts of Parliament, under the authority of which grants in fee may be made from Her Majesty's hereditary estates of her Duchy of Lancaster, the proceedings are required to be by the "Chancellor and council." The minute of the Chancellor alone has been produced to me as the authority for the bill to make the grant in fee. It has been stated to me by the officers of the duchy that the minute of the Chancellor alone was considered to be that of the Chancellor and council, but without any authority being shown to me for such a construction of the Act of Parliament. The auditor being required to sign the certificate at the foot of the bills, whereby it is stated that they have been prepared pursuant to a minute of the council of the duchy, I most respectfully and humbly beg leave to ask whether I am to accept the above-mentioned construction which has been placed on the wording of the Acts relating to the sale of the duchy property as being a legal construction? *F. R. Bertolacci.*	And that with respect to the auditor's authority for signing the certificate that the bills have been prepared pursuant to a minute of council, the auditor has the means of referring to the minute of council settling the terms for the grant, as well as to the minute of the Chancellor directing the bill to be prepared. I am, &c. *Fk. Dawes Danvers.*	This is an evasion of my question: the minutes of the Chancellor's acting without the council, are those which have been shown to me as the authority on which I was required to sign the bills. *F. R. Bertolacci.*

Appendix, No. 8.

Appendix, No. 8.

LETTER from *F. D. Danvers*, Esq., to *F. R. Bertolacci*, Esq., enclosing Memorandum by the Clerk of the Records.

Duchy of Lancaster, Waterloo Bridge,
31 January 1855.

Dear Sir,

I now enclose the result of Mr. Hardy's researches on the points you mentioned to him.

I should be sorry inconveniently to press you; but I think it right to inform you that I have received another letter, dated yesterday, from the London agents to the solicitors of Mr. Brooks, inquiring when the grant will be ready, as their clients are getting impatient at the matter not being completed.

I am, &c.

F. R. Bertolacci, Esq.

(signed) *Fk. Dawes Danvers.*

OBSERVATIONS by Mr. *Hardy*, the Clerk of the Records of the Duchy, on his Researches into the Origin of the Auditor's Signature to Grants in Fee.

Points upon which the Auditor desires Information.	Observations.
1. At what period the practice first began for the Auditor, or other officer, to sign the bill and certificate for a grant in fee, and to point out, if possible, the authority for his so doing?	I have referred to the bills for grants during a great many years past, and I do not find that it was the practice for the Auditors to sign either the bill or the certificate. It appears that the Attorney-general and the Clerk of the Council usually signed the bill; and the certificate, which is, in fact, only a part of the same document, was in like manner signed by the Attorney-general and the Clerk of the Council. This practice prevailed until the year 1844, when the signature of the Clerk of the Council was discontinued, and the Auditor's name directed to be affixed. The substitution of the Auditor's signature for that of the Clerk of the Council appears to be expedient on this ground: The bill, which is the authority for the grant in fee had theretofore been prepared by the Clerk of the Council by the Chancellor's direction (upon a particular signed by the Auditor); his signature, therefore, vouched for the agreement of the premises mentioned in the bill, with the Auditor's particular of the same, which particular having been grounded on the Surveyor's report, and signed by the Auditor, his signature was his certificate that the terms of the particular were in accordance with the report of the Surveyor. Now, however, that the complicated machinery of the particular has been superseded by the simple process of a minute of the Court, framed upon the Surveyor's report, it is obvious that the Auditor's signature to the bill and certificate should be affixed as his voucher that the bill is framed in accordance with such minute. The process thus becomes complete without the intervention of the useless and expensive detail of the Auditor's particular, and an equal security is afforded against any discrepancy between the particulars recited in the bill and the premises intended to be granted according to the minute of the Court. The signature of the Attorney-general signifies his approval of the bill, so far as the legal effect of the terms is involved. But neither his signature, nor that of the Auditor, is intended to convey any authority to pass the grant. The Queen's signature implies Her confirmation of the proceeding for passing the grant, and the Chancellor then authorises the Clerk of the Council forthwith to prepare and seal the grant. I am not able to refer to any prior act or minute of Court authorising the affixing of the signature of any officer to bills for grants in fee or otherwise. It would indeed seem to have arisen from the necessity of the case, and to have been coeval with the establishment of the duchy, that the Chancellor should require some voucher that the bill corresponded with the particulars upon which it was prepared, and the signatures of the Clerk of the Council, by whom the bill was prepared, and of the Attorney-general, by whom it was settled and approved, would therefore obviously have been required.

2. In

Points upon which the Auditor desires Information.	Observations.
2. In what respect, if any, does the Duchy Court differ from the Court of the Chancellor and Council?	If I have rightly apprehended this question, the object seems to be to inquire what is the distinction between the Duchy Court as a Court of Equity and the Duchy Court as a Court of Revenue.

To this it may be answered, that they are one and the same in their origin and constitution, and differ only in their functions and use. They are both of equal authority and equal antiquity, and date at least from the first institution of the duchy.

It is not known that there is any Act of Parliament by which the Duchy Court was constituted, neither have its powers and jurisdiction been limited or prescribed by Parliament, but its existence has been repeatedly recognised by the Legislature.

The jurisdiction of the court of equity is concerned in the remedying of differences arising between party and party, and in affording redress in cases of intrusion upon the rights and franchises and the liberties of the Sovereign *jure Ducatus*, and this court is likewise a court of appeal from the Vice-Chancellor's Court of the County Palatine of Lancaster.

To the Court of Revenue belongs more particularly and immediately the control in matters where the interests and management of the duchy estates and revenues are affected. The Chancellor of the duchy presides, and is supreme alike in the Court of Equity and the Court of Revenue; but the Chancellor and council of the duchy is a mode of expression generally employed to signify the executive or governing body in regard to the possessions of the Sovereign *jure Ducatus*, in contradistinction to the Treasury or other department of the Crown Revenues when referred to in regard to the management of the estates and revenues *jure Coronæ*. The Chancellor, however, is in effect the absolute head and ruler of the establishment; he acts either alone or with the assistance of the council, whose advice he calls in at pleasure, or when any matters of more than ordinary solemnity are to be discussed and treated of; but in these councils he invariably presides, and has the *veto*, and in all transactions of ordinary occurrence his authority is absolute, and is exercised without reference to the council.

The members of the council are selected and nominated by the Chancellor, and approved of by the Sovereign; and everything that is done with relation to the affairs and management of the duchy is presumed to be done by the Sovereign with the advice of Her Chancellor and Council of the Duchy, without interference or control from any other quarter whatever.

Appendix, No. 9.

DUCHY OF LANCASTER.

RENTS accruing from the Mines within the Manor of *Newcastle-under-Lyme* for 10 Years to Michaelmas 1846.

	£.	s.	d.
One Year to Michaelmas 1837	1,500	7	1¾
Ditto - ditto - 1838	1,456	12	6
Ditto - ditto - 1839	1,846	12	-½
Ditto - ditto - 1840	1,239	2	11½
Ditto - ditto - 1841	1,747	6	2½
Ditto - ditto - 1842	1,767	1	8
Ditto - ditto - 1843	550	-	-
Ditto - ditto - 1844	1,141	4	-
Ditto - ditto - 1845	2,370	4	1
Ditto - ditto - 1846	2,360	18	3
£.	15,979	8	10¼
Average of 10 Years - - - £.	1,597	18	10½

DUCHY OF LANCASTER.

Appendix, No. 9.

RENTS accruing from the said Mines for 10 Years to Michaelmas 1856.

	£.	s.	d.
One Year to Michaelmas 1847	1,889	3	5¾
Ditto - ditto - 1848	1,576	17	5¼
Ditto - ditto - 1849	2,218	17	-½
Ditto - ditto - 1850	2,055	9	5
Ditto - ditto - 1851	2,607	16	8
Ditto - ditto - 1852	2,742	7	2
Ditto - ditto - 1853	3,225	6	9
Ditto - ditto - 1854	4,500	18	1
Ditto - ditto - 1855	4,553	9	9
Ditto - ditto - 1856	5,688	8	11
£.	31,058	14	8½
Add "Way-leave" rent of 1*l.* per annum charged for two years in 1847, and yearly from 1848 to 1856	11	-	-
	31,069	14	8½
Average of 10 Years - - - £.	3,106	19	5½

DUCHY OF LANCASTER.

RENTS accruing in the Ten Years ended Michaelmas 1856, distinguishing the Rent for the Mines in Lease to Earl *Granville* from the Rents for other Properties of the Duchy.

	Rent from the Mines in Lease to Earl Granville.			Rents from other Property.			Total Rental.		
	£.	s.	d.	£.	s.	d.	£.	s.	d.
1847	1,889	3	5¾	23,952	13	8½	25,841	17	2¼
1848	1,576	17	5¼	23,883	13	10	25,460	11	3¼
1849	2,218	17	-½	24,303	16	-¾	26,522	13	1¼
1850	2,055	9	5	24,363	13	3¼	26,419	2	8¼
1851	2,607	16	8	24,277	14	10½	26,885	11	6½
1852	2,742	7	2	24,193	10	10½	26,935	18	-½
1853	3,225	6	9	24,208	1	1½	27,433	7	10½
1854	4,500	18	1	24,786	-	1	29,286	18	2
1855	4,553	9	9	25,415	2	11¼	29,968	12	8¼
1856	5,688	8	11	25,498	11	4	31,187	-	3

DUCHY OF LANCASTER.

AN ACCOUNT showing the Net Sums received, after deducting Property Tax, for Rent of the Mines within the Manor of *Newcastle-under-Lyme*, demised to the Right Honourable Earl *Granville*. Appendix, No 9.

	£.	s.	d.		£.	s.	d.
1837	1,500	7	1¾				
1838	1,456	12	6				
1839	1,846	12	-½				
1840	1,239	2	11½				
1841	500	–	–				
1842	3,014	7	10½				
1843	508	3	10	Exclusive of allowance for Property Tax of	41	16	2
1844	500	–	–				
1845	2,908	19	10	Ditto	102	8	3
1846	2,292	1	1	Ditto	68	17	2
£.	15,766	7	3¼				
Average of 10 Years £.	1,576	12	8¾				

	£.	s.	d.		£.	s.	d.
1847	1,836	–	3¾	Exclusive of allowance for Property Tax of	55	3	2
1848	—						
1849	1,531	17	-¼	Ditto	46	–	5
1850	—						
1851	2,155	2	2½	Ditto	64	14	10
1852	4,000	–	–				
1853	2,192	11	7				
1854	5,132	4	9	Ditto	310	3	8
1855	4,304	19	–	Ditto	196	19	1
1856	3,269	16	8	Ditto	284	13	1
£.	24,422	11	6½				
Average of 10 Years £.	2,442	5	1¾				

Appendix, No. 10.

DUCHY OF LANCASTER.

GRANTS in Fee, made between the 15th day of May 1854 and the 11th day of August 1855.

DATE of GRANT.	PREMISES.	GRANTEES.	Consideration.
			£. s. d.
12 June - 1854	Incroachments in the parish of Runcorn, within the Manor of Halton, containing 2 A. 0 R. 38 P.	Messrs. J. and T. Johnson	900 - -
15 June - 1854	Piece of Land at Salford - - - - - - -	The Mayor and Corporation of Salford.	130 - -
17 June - 1854	The right of carrying the Railway through, over, or upon the several Manors of Newcastle-under-Lyme, in the county of Stafford, and Halton and Marston, in the county of Derby - - - - - - - -	North Staffordshire Railway Company.	450 - - and 359 10 -
	Pieces of Land at Etruria, within the said Manor of Newcastle-under-Lyme, containing 1 A. 1 R. 11 P. -		
12 August 1854	Foreshore or Beach of the River Mersey, in the parish of Childwall, containing 10 A. 2 R. 10 P.	The St. Helen's Canal and Railway Company.	850 - -
12 August 1854	Messuage and Lands at Farington, in the county palatine of Lancaster, containing 6 A. 3 R. 37 P.	Mr. William Boardman -	663 10 -
27 Dec. - 1854	Cottages and Gardens in the township of Oldcoates, in the county of Nottingham, containing 2 R. 17 P.	Edward Chaloner, Esq. -	200 - -
25 May - 1855	Piece of Land at Salford, in the county palatine of Lancaster, containing 258 square yards.	Mr. John Brooks - -	53 15 -
25 May - 1855	Pieces of Land at Pendleton, in the county palatine of Lancaster, containing 272 $\frac{1}{9}$ square yards.	Mr. Aaron Wetherall -	79 12 6
2 June - 1855	The bailiwicks of Barsetlow and Ultra et Citra Trentham, in the county of Notts, with their appurtenances, and all Fee Farm Rents, Dry Rents, Quit-Rents, and other Rents belonging thereto - - - - - -		
		A. R. P.	
	Piece of Land at Kneesall - - -	7 1 20	
	Pieces of Land at Elksley - - -	66 2 6	
	Allotments of Land in Ordsall - -	19 3 11	
	Piece of Land at Mattersea - - -	4 3 5	The Duke of Newcastle - 4,219 6 6
	Piece of Land at Flintham - - -	7 2 38	
	Piece of Land at Calverton - - -	56 3 32	
	Cottages, Gardens, Pigsties, &c., in Cropwell Butler - - - - - -	7 3 18	
	Piece of Land at Beckingham - -	1 0 0	
		172 0 10	
	All in the county of Notts.		
14 July - 1855	Freehold House and Garden, and other Premises, in Wavertree, in the county palatine of Lancaster, escheated on the death of Julius Focke.	F. D. Danvers, Esq., in trust, to sell and divide the proceeds amongst the representatives of the deceased.	

Appendix, No. 11.

DUCHY AUDITOR.

Your opinion is requested,

WHETHER by the arguments urged by the Auditor in his statement, he has established his right to claim a seat at the council; and,

Whether by not being admitted to such seat, he is deprived of the powers which are necessary to discharge the duties belonging to his office.

WE are of opinion, most clearly, that the auditor has not, by the arguments referred to, established any right to claim a seat at the council.

We are of opinion, most clearly, that the auditor is not, by not being admitted to such seat, deprived of any power necessary to discharge the duties belonging to his office.

We are informed that Mr. Bertolacci has access to all minutes relating to his duties.

Duchy Office,
14 April 1855.

(signed) *T. F. Ellis.*
W. M. James.

N. B.—The above opinion was communicated to Mr. Bertolacci, nearly in the identical words of the law officers, in Lord Harrowby's letter of 4 May 1855, which has been put in. It has also been put in during the inquiry.

CASE.

THE Duchy of Lancaster, from its earliest institution as a separate "appanage" of the Crown of England, has been governed by a Chancellor and a Council, composed of certain special officers, namely, the Receiver-general, the Attorney-general, the Surveyor-general, and the Auditor.

The Chancellor is appointed by the Sovereign, and he is empowered to nominate, in the Sovereign's name, the officers above mentioned, and constituting the council, as well as "stewards and receivers, feodaries, auditors, escheators, coroners, bailiffs, &c."

The constitution of the duchy is not defined by any particular enactment, but every charter and Act of Parliament and public document relating to the duchy, from the earliest period of its history, expressly show that its "government and guidance," and the control and management of its property are confided to the "Chancellor and Council" conjointly.

The auditor of the duchy has invariably taken his seat as a member of the council, "ex officio," and this privilege is necessarily implied from the nature and responsibility of his duties, and from the terms of his patent of appointment, and of the usual oath administered to him. On the 15th of May 1854, Mr. Francis Robert Bertolacci, was appointed to the office of "auditor" by the Chancellor of the duchy, upon the resignation of Mr. Lockhart, but has been excluded from the council.

Under these circumstances your opinion is requested as to

Whether the Chancellor was legally empowered to deprive Mr. Bertolacci of his seat in the council, and to divest his office of a privilege coeval with the first institution of the duchy, and exercised, without any exception, by all his predecessors.

OPINION.

The patent of appointment to the office of Chancellor of the duchy being, as far as it is before me, silent upon the question; whether the auditor is a member of the council, and the patent of the auditor himself being also silent upon this point; it appears to me that the right of the auditor to sit and act as a member of the council depends altogether on *usage*.

I do not find that under any patent or charters, or other legal instrument, the members constituting the council are specified. Under these circumstances, therefore, if the auditor has always sat and acted as a member of the council, it must be presumed that he has done so of *right*, and he cannot lawfully be excluded.

Temple, 27 July 1857. (signed) *FitzRoy Kelly.*

Appendix, No. 12.

Appendix, No. 12. Mr. *F. R. Bertolacci* to the Honourable *Francis C. Lawley*, Private Secretary to the Chancellor of the Exchequer.

5, Cornwall-terrace, St. George's-road, Pimlico,
My dear Sir, 2 March 1854.

I HAVE the honour to send you the statement of my case.

In committing the subject to paper I have endeavoured to do so in a manner as little offensive as possible, without altogether concealing the facts; for this reason I have kept to the main stem of the narrative, and, if I may use the expression, lopped off those branches which would have shown the matter more fully; but which, at the same time, would have made it more complex. I am, however, prepared to go into detailed explanations should you require them.

In sending the enclosed to you, I feel in honour bound to say that, since I saw you, Sir Charles Trevelyan came into Mr. Stevenson's room when I was there, and in a friendly manner tendered me his hand; therefore, were I only to consult my own feelings, I should send him a copy of my statement; but perhaps that might be considered as exhibiting a desire, on my part, to put myself in an offensive position towards him, while my only object is to act on the defensive against the injury he has endeavoured to inflict on me, and with which I am still threatened.

With a recollection of the past, I must, in justice to myself, say, that I no longer rely in the slightest degree on any friendly aspect of Sir Charles Trevelyan; and that the power he wields places me with unequal odds against me.

I have, &c.
The Right Hon. F. C. Lawley, M.P. (signed) *Francis R. Bertolacci.*
&c. &c. &c.

MEMORANDUM of Mr. *Francis Robert Bertolacci*'s Case, in connexion with the Irish Reproductive Loan Fund.

BY my having, without remuneration, devoted to an object of public utility, during a period of five years, the time which is usually given to recreation and rest after the hours of business, and by obtaining information respecting the resources of the poorer class of industrious persons in the metropolis, I earned the patronage and support which procured for me, as a reward for these exertions, the appointment of Secretary to the Court of Governors of the Irish Reproductive Loan Fund Corporation in the spring of 1845, the business of that institution being analogous to that of the one I had gratuitously worked at and superintended.

The Irish Reproductive Loan Fund Institution had existed for 23 years, and was of a permanent nature, having, at the time of my appointment, a corporate existence by a Royal charter, acknowledged by Act of Parliament of 7 & 8 Vict. c. 38.

My office of secretary was not, by its nature, encumbered with the details relating to the circulation of the money, which were carried out by various local associations, acting under Boards of county trustees. Its duties were those of auditing the accounts of the trustees, and the salary was paid more for the confidence and responsibility attached to the situation than for the labour which was required from the party holding it; but my desire to correct abuses, which had crept into the institution previous to my connexion with it, and render it efficient for the benevolent object of its founders, made me devote myself to the task of reforming the details, without regard to the trouble I was thereby incurring.

By the latter part of the year 1847 I had already placed out of jeopardy a considerable sum, and had succeeded, notwithstanding many legal and other difficulties, in obtaining the concurrence of the trustees, and their subordinate associations, to act under a new code of regulations.

The institution was then reviving for the performance of a public good in Ireland, when it was brought to a termination by the Government, through the agency of Sir Charles Trevelyan, who, with this object in view, sent for me about the month of November 1847, on his return from Dublin.

On my entering Sir Charles Trevelyan's office at the Treasury, where he was with his private secretary, he conducted me into a small private room adjacent to it, and opened the conversation in these words:—"Mr. Bertolacci, before I speak to you on the subject for which I have sent for you, I will first assure you that what I am going to propose shall not

operate

operate to your prejudice, but, on the contrary, rather to your advantage." He then acquainted me with the wish of Lord Clarendon and himself, that the proceedings of the Irish Reproductive Loan Fund should be brought to a termination, and that the money should be handed over to the Treasury.

In reply to this communication, I pointed out that it would not be advisable, in a public point of view, to put an end to the existence of an institution which was much needed in Ireland, and when properly conducted (as it was then in course of being) would be productive of much good to that country. Sir Charles Trevelyan, however, declined to listen to any argument on the subject, and said that his mind and that of Lord Clarendon were quite made up, and that I was to go to Mr. John Abel Smith (the Chairman of the Corporation of the Irish Reproductive Loan Fund Institution) and acquaint him with their wishes.

It was well known to Sir Charles Trevelyan that Mr. John Abel Smith had been my patron, and what he said prevented any apprehensions which might have existed on the part of that gentleman or myself of injury being inflicted on me by the proposed measure, while he made me the bearer of the communication to Mr. John Abel Smith, whose influence with the other governors was absolutely necessary to carry into effect the scheme which would deprive me of my appointment, by which I was in receipt of 200 *l.* per annum, besides my Ordnance pay of 210 *l.*, with a yearly increase of 10 *l.*

Mr. John Abel Smith having consented to Sir Charles Trevelyan's proposal, and obtained the sanction of the Board of Governors to the transfer of their fund to the Treasury, I (ostensibly under the Governors, but virtually working for the Treasury) devoted my time, until the commencement of the Session of Parliament of 1848, to the necessary correspondence with the county trustees, to make them put a stop to the working of the numerous local loan associations in Ireland, and take preliminary steps to the collection of the money.

When the Bill was introduced into the House of Commons to dissolve the Corporation of the Irish Reproductive Loan Fund, and to vest in the Crown the money due to the governors of that institution, I was the only person capable, from my knowledge of the intricate and multifarious details of the business, to compete with the many difficulties arising out of points of law, matters of account, and disinclination on the part of the holders of the money to give it up, and Sir Charles Trevelyan promised Mr. John Abel Smith, who had charge of the Bill, that I should receive 300 *l.* per annum from the fund for carrying the Act into effect, after it should be passed into a law.

The Act was passed on the 4th September 1848, and the property heretofore belonging to the governors became that of the Treasury. The construction which Sir Charles Trevelyan then conceived his promise to bear was, that the 300 *l.* per annum he had engaged should be paid to me was not in lieu of the previous 200 *l.* per year from the governors, but that it was to be paid to me as the whole salary from every source, although by such an arrangement I should have received 100 *l.* per annum less than before the passing the Act, and should have also been deprived of the yearly increase, notwithstanding that my appointment under the Treasury put me in a still more responsible position than before, gave me duties of a much more difficult nature to perform, in consequence of having to call in the money, and was on the point of exposing me to those risks inseparable from travelling in the west of Ireland with the object of obtaining the payment of debts. So self-evident was the mistaken view by Sir Charles Trevelyan of the meaning of his promise to Mr. John Abel Smith, that Mr. Leake, the then principal clerk assistant to the Secretaries to the Treasury, represented the case in my favour. Sir Charles Trevelyan still refused his sanction, except to the reduced amount of my joint allowances. The matter was therefore explained by Mr. John Abel Smith to Sir Charles Wood, then Chancellor of the Exchequer, who settled it by making an order that I was to receive the 300 *l.* per annum, free of any deductions from my Ordnance salary, and without injury to my prospects in that department.

As the local associations had, by promissory notes of 100 *l.* each, become responsible to the county trustees for the sums advanced to them, and as the trustees had been held by the late governors to be the responsible parties to the London Board for the full amount of their trusts, my appointment by the Lords of the Treasury to collect the money, &c., did not impose on me (when that appointment was given me) the necessity of questioning the details of the small loan accounts of single pounds, shillings, and even pence, between the poorer class and the local loan associations.

After I had succeeded in collecting about 46,000 *l.*, notwithstanding the disadvantages under which I laboured by the state of Ireland in the years immediately following those of scarcity, applications were made at the Treasury to relieve the trustees from their liability, and, contrary to the advice tendered by me with a knowledge of the practical working of the system, Sir Charles Trevelyan yielded to the pressure, and circulars were sent out intimating the desire of the Treasury to release the trustees from their responsibility, and not to require the payment from them of the amounts which the local associations could not recover from the borrowers of small sums. This principle, however plausible in theory, immediately relaxed the efforts of the trustees and local loan association, who were responsible to the trustees, and gave rise generally to the broad and false assertion that all the outstanding debts were irrecoverable owing to death, emigration, and pauperism, although the inquiries which I have since been carrying on, through the medium of the constabulary, has shown that from 30 to 50 per cent. of the amount still outstanding is due by parties well able to pay their debts, who, in many cases, are tenants of the members of the local loan associations, and possess stock on their land.

Appendix, No. 12.

This decision has rendered it necessary to investigate an immense mass of intricate and most confused accounts of small sums which had been lent to be repaid almost universally by 20 instalments each, and in order to check the amounts stated to be due, the books, containing minute details of the issues and receipts by the local loan associations, have been sent for.

The resolution to relinquish the legal rights of the Crown with respect to this fund, and to rely on a nominally equitable claim, has operated in reality as a gift of charitable money to parties having no claim to it, as the accounts kept by them in very few instances contain any record of the sums received for interest at rates from 8¼ to 13 per cent., and fines to an unlimited extent; the means are therefore missing to ascertain what portion of the irrecoverable arrears are covered by these great profits during a period of 25 years, while the Treasury stands pledged not to require the payment from the trustees of such amounts of principal as are irrecoverable.

The fresh source of immensely increased labour by an inquiry into the accounts and details of the loans by about 70 associations, during so many years (without reckoning many whose accounts have been closed), has been accompanied by the necessity of classifying the names of about 40,000 borrowers and sureties into townlands, and transmitting such lists to Ireland for the circumstances of the parties to be investigated. Although this additional work was thrown on me towards the end of the year 1851, with the addition of a second assistant only, and great difficulty has ever since been experienced at getting the necessary accounts from the local loan associations, which has entailed extra correspondence, yet Sir Charles Trevelyan, after a very few months, expressed an anxiety that the business should be terminated.

My appointment being to obtain payment of the money, and otherwise to carry into effect the provisions of the Act which vested the funds of this charity in the Crown to be expended for charitable purposes and objects of public utility, I have, in the conscientious discharge of the trust reposed in me by that appointment, found myself in the invidious position of having to obtain payment from, and oppose the demands of, persons who have possessed considerable personal influence with the Government, and for some time it has been patent to me that that which my public duty required of me was operating to the detriment of my private interests.

The means by which I have been able to continue my duties at the Treasury has been by Treasury Minutes, demanding from the Ordnance a renewal every six months of my leave of absence from that department, and the last renewal was on the 1st of October; the current leave therefore expires on the 31st March.

About the 16th November last I was astonished to learn, through a private channel, that a communication had been made from the Treasury to the Ordnance of the intention of the former to send me back immediately to the latter department.* A private intimation that a suggestion would be made by the end of the month for the application of a portion of the fund was at this time lying at the Treasury from an influential person whose previous demands I had opposed.

On the 21st November Mr. Stephenson sent for me, and said that Mr. Monsell, the clerk of the Ordance, had just called on Sir Charles Trevelyan to say, that unless I returned "immediately to the Ordnance," without waiting to the expiration of the six months for which I had leave of absence, that I could not possibly get my advancement to a higher class in that department, which, in the ordinary course, was then about to fall to my turn to obtain. Mr. Stephenson then said that Sir Charles Trevelyan had desired him to put the question to me which of the two I would choose—either to remain the six months at the Treasury, or to forego the advancement to the next class at the Ordnance, adding, at the same time, that he had observed to Sir Charles Trevelyan that he thought that I could not do otherwise than return to the Ordnance. In reply, I declined to make a selection which would be compromising my claim to that which, in both cases, was already secured to me by Treasury Minutes, and as by my giving up my engagement at the Treasury to receive that at the Ordnance as a compensation, which came to me in the ordinary course, I should be releasing Sir Charles Trevelyan from his original pledge in November 1847, and lose 100 *l.* per annum on what I should have been in receipt of, had he not urged the transfer of the fund to the Treasury. On this occasion I entered fully into all the particulars which had led to my appointment, first by the Governors of the Irish Reproductive Loan Fund Institution, and secondly by the Treasury; and I stated that if after the pledge given to me, and the serviaes I had performed for the Treasury for the last five years and a half, I should be sent back to the Ordnance, it would be inflicting on me a grievous and serious injury. Mr. Stephenson said he would communicate to Sir Charles Trevelyan what I had told him.

On the 24th November Sir Charles Trevelyan sent for me, and, in the presence of Mr. Stephenson and Mr. Leake, proposed to me that I should return to the Ordnance Office for the sake of obtaining my step in that department. I explained to Sir Charles Trevelyan that by the plan he proposed I should stand at a loss of 100 *l.* per annum, of what I had been in the actual receipt of from the late governors, and at a loss of 200 *l.* per annum on what I should have been in the receipt of, had he not taken the steps he did to dissolve the institution and to vest the money in the Crown, and that as he had, on sending for me in November 1847, to acquaint me with his wish that the fund should be transferred to the Treasury, opened the conversation by saying that before he spoke to me on the subject for which

* This communication to the Ordnance Office must have been a private one, as there was no minute of the Treasury Board directing it to be made, nor official letter written by the Treasury to the Ordnance.

which he had sent for me, he would assure me that what he was going to propose should not operate to my prejudice, I consequently expected he would protect me against the loss between what I should have had and what I would have on the cessation of my employment in connexion with the Irish Reproductive Loan Fund. Sir Charles Trevelyan at first said that he had never used the words I attributed to him, but on my referring to Mr. Leake in testimony of my having at the time mentioned to him that Sir Charles Trevelyan had made me that promise, Sir Charles said he would not deny that he might have used the words I stated, but that he denied they bore the construction I had put on them, and that all he intended to do by what he had promised was to protect me from any loss of my Ordnance salary, while employed by the Treasury in connexion with the Reproductive Loan Fund. I was therefore obliged to remind Sir Charles Trevelyan that, in the first place, had the fund not been transferred to the Treasury according to his desire, I should not have stood in need of any pledge on his part; secondly, that the pledge which he personally gave me was in November 1847, when he sent for me to ask me to be a party to that which was to deprive me of my appointment under the Governors of the Irish Reproductive Loan Fund; and, thirdly, that the question about my Ordnance salary did not arise until after the passing of the Act in September 1848, when the fund had been transferred to the Treasury, and that even then, so far from his wishing to protect me against the loss of my Ordnance salary, he had actually opposed my having the amount of salary which included it, and that it was not until Mr. John Abel Smith laid the matter before the Chancellor of the Exchequer that I was secured the combined amount of salary which had been promised to me.

At this interview with Sir Charles Trevelyan, I pointed out that I could not return to to the Ordnance from my own choice, and, as if it were of my own accord, while by the last Treasury Minute my services were required for the Reproductive Loan Fund at the Treasury until the 31st March, without releasing him from the pledge to which I looked as a guarantee against loss, in consequence of the transfer of the fund to the Treasury, from which I was previously in the receipt of a portion of my income, but that I would obey any orders which might be officially made to me, as thereby I should not forego my right to appeal.

In reply, Sir Charles Trevelyan said, that an "official communication" would consequently be made to me. No Treasury Minute has however been made, directing me to return to the Ordnance; but those official gentlemen at the Treasury, whose daily duties bring them into contact with Sir Charles Trevelyan, have, by pointing out the risk of displeasing him, strenuously urged me to adopt the course by which I should have relinquished my post at the Treasury, and the claims I have on the grounds of a pledge given, and have voluntarily gone back to a less responsible position than that I now occupy, notwithstanding my additional claims on the Government for advancement in the public service for the efficiency with which I have discharged the difficult duties confided to me.

After these proceedings, Sir Charles Trevelyan wrote a private letter to Mr. Monsell on 21st January,* saying, that it was "absolutely decided" that I was to return to the Ordnance on the 1st April, notwithstanding any inconvenience which might be felt at the Treasury by my absence from the duties on which I was engaged.

The amount received by the Treasury from the Irish Reproductive Loan Fund are as follows; viz.,

	£.
A sum specially applicable to the encouragement of the fisheries on the western coast of Ireland	5,000
A sum set apart by the Act for the promotion of Agricultural Schools in the province of Munster (3,500 *l.* of which was recovered by me)	5,130
The amount recovered by me from the various Loan Fund Trusts in Ireland	43,325
Interest from investment of sums collected	5,027
The fund from which my salary was paid by the late Governors; viz.,	
Cash £. 1,283	
Value of Stock transferred to the Treasury 6,293	
Dividends since received on the same, &c. 1,787	
Making a total from the fund originally set apart by the subscribers for this object	9,363
To which may be added the profit which would be made, were the whole stock from all sources to be realised at the present rate of the Funds	1,818
Making a Grand Total of £.	69,663

When Sir Charles Wood was Chancellor of the Exchequer, I understoood it was his intention, in consequence of the duties I had performed, to place me in a responsible position in connexion with the general supervision of savings banks, should the Bill then introduced

* This letter was shown to me by Mr. Collier, Sir C. Trevelyan's private secretary, before it was sent to Mr. Monsell.

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introduced by him to the House of Commons have been passed into a law. On this occasion, I mentioned to Sir Charles Trevelyan my wish to have such an employment, and he expressed his opinion that I was peculiarly qualified for it, and he afterwards informed me that he had had some conversation about me with Sir Charles Wood.

I feel that after the circumstances I have alluded to in this memorandum, I should be deceiving myself, were I to rely on any support from Sir Charles Trevelyan, and I am therefore compelled to lay my case before the Right honourable the Chancellor of the Exchequer, in the hope that the difficult duties I have successfully discharged, and the testimonials I have obtained, will be received as an excuse for soliciting his patronage, and presenting myself to his notice for some appointment for which he may consider me fit, that I may be protected against loss of my official income after having been 18 years in the public service, and against being sent back to the subordinate employment of a clerk in the Ordnance Office, as I have for the last five years and a half discharged duties of a more responsible nature under the Treasury.

2 March 1854. *Francis R. Bertolacci.*

COPIES of Mr. *Francis Robert Bertolacci*'s Testimonials.

COPY of Letter from Mr. *John Abel Smith*, M.P. (and Chairman of the Irish Reproductive Loan Fund, Governors) to Mr. *John George Shaw Lefevre*, Secretary to the Board of Trade, and a Governor of that Fund.

My dear Lefevre, 6 March 1845.

I SEND you herewith all the letters and applications I have received in reference to the secretaryship of the Loan Fund Board.

There is no application from Mr. Bertolacci, but I earnestly recommend him to your notice, and I hope you will consult Mr. Drinkwater Bethune about him, who has known him from childhood, and has the strongest opinions of his merits and fitness.

I am, &c.

J. S. Lefevre, Esq. (signed) *John Abel Smith.*

COPY of Letter from Mr. *Bethune*, Parliamentary Counsel to the Home Office, to Mr. *John George Shaw Lefevre*, Secretary to the Board of Trade and Governor of the Irish Reproductive Loan Fund.

Dear Lefevre, Home Office Chambers, 7 March 1845.*

As I understand you are one of a committee to whom is referred the choice of a secretary for some board connected with Irish Loan Funds, for which my friend F. Bertolacci is a candidate, I wish to put on record my high opinion of him, and of his special qualifications for such an office. I have known him from childhood. His grandfather belonged to one of the first families in Corsica, and was at the head of the supreme court of justice there during the occupation of the island by the British. His father joined the British party, which led to his emigrating, on our evacuation of Corsica.† He married an English lady in Ceylon, whither he accompanied Lord Guildford in some official situation, and Frank was born in England, a British subject to all intents and purposes notwithstanding his name.

He was left to fight his way for himself through the world, his parents being both dead, and was appointed to a clerkship in the Ordnance Office, through the influence of Lady Anna Maria Donkin, daughter of the late Earl of Minto, who had known his family in Corsica.

Some years ago I established a charitable loan society in London, or rather I joined one, which, although established under charitable pretences, was in the hands of men who were not insensible to the advantages to themselves which might be derived from it. By degrees I got it out of their hands, and at this point requested Bertolacci to take the honorary office of Secretary. This he complied with in the first instance wishing to oblige me, but very soon from the sincere interest he took in the good work itself.

He had, as I have already intimated, nothing to depend on but his paltry salary at the Tower; nevertheless, for several years together he devoted his whole leisure time to the effective control of this establishment, which he put into the highest state of efficiency, in proof of which I enclose you some of our reports. He devised an entire system of book-keeping and checks, which, as long as we were allowed to carry on our proceedings unchecked by the hostility of the magistrates, answered their purpose admirably, and furnished the means of making up the curious tables you will find annexed to our report. He did all this gratuitously, and even used to resent the idea of receiving any remuneration in any shape,

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* Mr. F. R. Bertolacci was not aware, until the year 1852, that such a letter had been written on his behalf.

† In Ceylon Mr. Anthony Bertolacci (Mr. Francis Robert Bertolacci's father) held the following situations in succession, viz., Commissary of Musters to His Majesty's Troops, Postmaster-general, Agent to Government, Comptroller-general of Sea Customs, and Auditor-general of Civil Accounts.

shape, knowing as he did, how ill our funds could afford it. In short, if you want a young man of most incorruptible honour and integrity, of great zeal for the particular purpose you have in view, and intimately acquainted with the practical workings of it in all its branches and details, you cannot do better than let your choice light on him.

If you want somebody still better suited, why I wish you may get him.

During the existence of our society (which came to an untimely end, owing to the magistrates persisting in giving time to the defaulters for paying their arrears), Bertolacci has furnished our forms to societies in all parts of England, and it is within your own knowledge that Mr. Gladstone applied to him for information on this subject, as to a person best qualified to afford it.

Yours, &c.

J. G. S. Lefevre, Esq. (signed) *J. E. D. Bethune.*
&c. &c. &c.

Copies of Drafts of Letters which had been prepared under the directions of the Right Hon. *William Gladstone*, but not carried into effect before he resigned office. Much of the information required was communicated to him personally as well as by memorandum, by Mr. *F. R. Bertolacci*, and these drafts were afterwards forwarded by Mr. *John G. Shaw Lefevre* to the Treasury.

Sir,

The Lords of the Committee of Privy Council for Trade are desirous of obtaining information on the present state of the law respecting Loan Societies, Pawnbrokers, and other means in use for supplying the poorer classes with temporary loans of money.

His Lordship has been informed that you are practically conversant with this subject, from having had charge of the management of a charitable society instituted in London for this purpose.

I am directed to request that as soon as you can be spared from your official duty in the office of Ordnance, you will place yourself in communication with J. G. S. Lefevre, Esq., of this office, and J. E. D. Bethune, Esq., of the Home Office, and in concert with these gentlemen prepare for his Lordship's information a report on the several topics above indicated.

I have, &c.

F. R. Bertolacci, Esq.,
Office of Ordnance, Tower.

Sir,

I have the honour to enclose copy of a letter written by direction of the President of the Committee of Council for Trade and Plantations, to F. R. Bertolacci, Esq., a clerk in the Surveyor-general's Department of the office of Ordnance.

I have to request, on the part of his Lordship, that you will be pleased to allow Mr. Bertolacci to absent himself from his ordinary official duty at the Tower for such time as may be necessary to enable him to prepare the report which his Lordship is desirous of obtaining.

Colonel J. Peel, &c. &c.*

Extract from the Report of the Committee by the Governors of the Irish Reproductive Loan Fund, to choose a Secretary.

The Committee appointed by the Irish Reproductive Loan Fund Board, to recommend a fit person for the office of Secretary to the Board, and to consider the amount of his salary, beg leave to report—

1st. That Mr. Francis Robert Bertolacci, now a clerk in the Ordnance Department, who is most highly recommended by Mr. Bethune, appears to them to possess so great an amount of knowledge and experience as respects Loan Societies generally, and to have been already of such essential service in the promotion and regulation of institutions of that nature, having been much referred to from various parts of the country, that your Committee entertain no doubt he is peculiarly fitted for the vacant office.

Minute by the General Court of Governors of the Irish Reproductive Loan Fund Institution, Thursday, 9 October 1845.

Moved by Mr. Tomkins, and seconded by Mr. Blanchard, that a committee, consisting of John Abel Smith, Esq., M.P., S. M. Leake, Esq., and Henry Blanchard, Esq., be appointed to consider the secretary's report and the general state and management of the funds in Ireland belonging to the Corporation, and report thereon to the court, two to be a quorum of the Committee.

Extract

* Col. J. Peel was then Surveyor-general of the Ordnance.

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EXTRACT from the Report of the Committee appointed on 9th October 1845, prepared by Mr. *Leake*, and presented to the Board of Governors on 21 January 1846.

IN compliance with the instructions of the Governors of the Irish Reproductive Loan Fund, contained in their minute of 9th October last, "appointing us a committee to consider the secretary's report and the general state and management of the funds in Ireland belonging to the corporation," we have carefully perused the report of Mr. Bertolacci of his proceedings on his late inspection, and find that the said report contains a detailed description of the present state of the affairs of this institution in the 10 counties of Munster and Connaught, which he appears to have inspected with much diligence and ability, followed by several valuable and judicious observations, on the system as it is at present worked, and suggestions as to the measures which it would be desirable to adopt for the improvement of that system.

It appears from Mr. Bertolacci's statement and observations, that several defects and irregularities at present prevail in the management of the affairs of this institution in Ireland, of which the following are instances. No uniform system of accounts has been established either of the funds entrusted to the county Boards, or of those entrusted by them to the local associations; in consequence of which defects, it is very difficult to make up correct accounts of the Fund for Parliament, or for the information of the governors in London, or to ascertain the precise amount of balances unemployed by the county Boards; and it is still more difficult to discover the amount of the balances remaining in the hands of the local associations arising from profits on the funds entrusted to them.

The regulations of the Court of the 12th December 1844 have been generally neglected, and the want of some well-defined regulations for granting certificates to local associations, and with regard to the notes to be taken by those associations, is apparent, the consequence of which defects are * * * *, &c.

It therefore appears to us to be absolutely incumbent upon the court to use every endeavour to reform the irregularities now reported to them, which can be employed without giving any well-founded dissatisfaction to the gentlemen who have undertaken the management of the funds in the counties * * *, &c.

We are however of opinion, that such a reform can only be brought about by a continued and well-sustained correspondence to be carried on with the county Boards and local associations * * *, &c.

That the object of this correspondence should be, to bring the whole of the accounts of the Fund more completely under the control of the court, and more particularly to carry out in detail such of the measures suggested by Mr. Bertolacci, as may be approved by the court, both with respect to the irregularities he has observed and the general management of the Fund.

COPY of a Letter from Mr. *Leake*, Principal Assistant to the Secretaries to the Treasury, to Mr. *Bertolacci*, adverting to a Memorandum by Mr. *Bertolacci* of his Claims to Compensation on the abolition of his office of Secretary to the Governors of the Institution by the Act of Parliament dissolving the Corporation of the Irish Reproductive Loan Fund.

My dear Sir, Exmouth, 18 September 1848.

I RETURN your draft of a letter to Mr. J. A. Smith, as I presume you will wish to submit it to the meeting of governors on Thursday next. If you will let me have it again next week when I shall be in town, I will submit it to Sir Charles Trevelyan, unless you prefer doing that yourself.

I do not think my presence at the meeting on Thursday is at all necessary, but as you wish me to express my opinion in writing on your application, I will now do so.

I do not think your services are at all overstated in your representations, and they give you the strongest claims on the institution, and on the public.

The present question is with respect to your claim on the institution. The appointment you hold under them was given to you in preference to other candidates, in consequence of your six years' gratuitous employment in similar business, but I cannot understand how that selection can impose an obligation on the institution to remunerate you for those former gratuitous services to the public.

The simple question for them to decide on, is, what remuneration your services to them will entitle you, and I have no hesitation in stating my opinion, that those services whether their result is considered, or the zeal with which they were executed, or the risks and sacrifices sustained in the execution of them, will justify a very handsome reward, and I should think the Treasury would not withhold their sanction to such a reward; but if a compensation is claimed on the principle adopted by Parliament on the abolition of some law offices, I doubt much whether the sanction of that Board will be procured, as they have never consented to such compensations except when they have been forced upon them by Acts of Parliament, and in all other cases of abolition have been guided by the principle of the Superannuation Act.

With respect to your six years' gratuitous service to the public previous to your appointment by the institution, and which, with your employment under the institution, qualify you specially for further employment by the Treasury for the same business, that service is considered by the Treasury in your appointment under the new Act, and in my

humble

humble opinion ought to be considered in fixing your salary and making arrangements with the Ordnance Department with regard to your permanent provision.

You will observe that I have not had an opportunity of communicating with any other person on the subject, and that therefore the above is merely my individual opinion, and is not to be considered as having any greater weight.

I am, &c.
(signed) *S. M. Leake.*

EXTRACT from a Letter from Mr. *John George Shaw Lefevere* to Mr. *John Abel Smith*, M. P., dated 20 September 1848.

CONSIDERING the important services rendered by Mr. Bertolacci to the Fund, the personal risk he has incurred in Ireland, where I understand him to have been attacked by fever, the honourable and disinterested manner in which he has aided in carrying into effect the present arrangement which (if I may be forgiven for the simile), cuts off the branch on which he sits, it seems to me just and reasonable that he should receive a compensation equal in value to the office he is about to lose.

His office was, I apprehend, held at the pleasure of the Board, but practically upon good behaviour. His salary might possibly have been increased eventually to 300 *l.* per annum.

(signed) *John Lefevre.*

EXTRACT from a Memorandum by Mr. *Leake* for the Treasury Board, dated 10 October 1848, with respect to the proposed Emoluments to be granted to Mr. *Bertolacci.*

IN preparing a minute for carrying into effect the Act of 11 & 12 Vict., c. 115, which transfers the management of the Irish Reproductive Loan Fund to the Treasury, it is proposed that the following allowances should be made to Mr. Bertolacci who was to be employed in that business; viz. 300 *l.* per annum.

1st. To be paid out of the fund until the business is completed, but at any rate not to continue longer than three years from the passing of the Act.

2d. To be allowed out of the fund, when directed to go to Ireland, his actual travelling expenses, and an allowance, say 15 *s.* a day, for his subsistence from home.

3d. In case the Board of Ordnance should make any deduction from his Ordnance salary (of 210 *l.* per annum, increasing by 10 *l.* annually), in consideration of his absence from his duties in that department, such deductions should be reimbursed to him from the Fund.

Additional duties have been given to Mr. Bertolacci, to discharge which were not contemplated when the annexed memorandum was drawn up.

Mr. Bertolacci's present emoluments (March 1853) are 550 *l.* per annum.

The foregoing allowances will, I think, appear to be no more than what may be reasonably and properly granted to him, when the following facts are considered:—

The allowances are not to be paid out of the public money, nor out of money appropriated by the original committee of the Reproductive Loan Institution, for making loans to the poor in Ireland; but out of a sum of 10,000 *l.* specially set apart by the original committee for paying the expenses of management of the institution.

Out of the produce of this sum Mr. Bertolacci's predecessor received a salary of 300 *l.* per annum.

On his death Mr. Bertolacci was appointed with a salary of 200 *l.* only, though, beyond comparison, more efficient.

Mr. Bertolacci's duties under the Treasury, will, if possible, be more responsible and arduous than those entrusted to him by the governors of the fund; and, in fact, they are such as it is doubtful whether any other person could perform; but the duration of his emoluments, which he had every reason to expect would be permanent, will be reduced to three years.

EXTRACTS from the Treasury Minute on 13 October 1848, on the Act of 11 & 12 Vict. c. 115, vesting the Irish Reproductive Loan Fund in Her Majesty. (This Minute was prepared by Mr. *Leake* under the directions of Sir *Charles Trevelyan.*)

MY Lords are pleased to appoint Mr. F. R. Bertolacci, under the powers vested in them in the fourth clause of the Act, to collect and receive the money from the trustees and parties liable to pay the same, and to authorise him to correspond with the several Boards of Trustees, for the purpose of collecting such money and otherwise carrying into effect the provisions of the Act.

In the performance of this duty Mr. Bertolacci will occasionally be required to visit personally the several Boards of Trustees in Ireland, for the purpose of inspecting their accounts, enforcing their Lordships' regulations, and executing any other duties attached to his appointment.

In consideration of the responsible duties intrusted to Mr. Bertolacci, my Lords will,

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under the power vested in them by the twelfth clause of the Act, direct the payments to him * * * *, &c.

Let a circular letter be written to the Boards of Trustees for the Irish Reproductive Loan Fund in the following counties respectively; viz.: Clare, Cork, Galway, Kerry, Leitrim, Limerick, Mayo, Roscommon, Sligo, and Tipperary. Transmit to each of these Boards a copy of the Act of 11 & 12 Vict. c. 15, and acquaint them respectively, that my Lords have, in pursuance of the provisions of the fourth clause of the inclosed Act, appointed Mr. F. R. Bertolacci to collect and receive the monies vested in Her Majesty by the said Act, and generally to carry out the provisions thereof. Desire that they will give him all the information they may be possessed of, to enable him effectually to perform the duties entrusted to him; and will address all correspondence connected with the business of the Reproductive Loan Fund to him at the Treasury Chambers, Whitehall, * * * *, &c.

Acquaint them that my Lords have directed Mr. Bertolacci to proceed to Ireland, and assemble the Boards of Trustees in each county, when he will communicate their Lordships' wishes to them, and make such arrangements as may be necessary to carry out their Lordships' instructions. Desire that every trustee in the counties may be immediately informed of this communication, and that it be placed on record in the minutes of their proceedings.

Transmit copy of this minute to Mr. Bertolacci for his information and guidance; also copy of the circular letter sent to the trustees, and desire he will communicate the same to the governors of the late Irish Reproductive Loan Fund.

It being advisable that Mr. Bertolacci should proceed immediately to Ireland, for the purpose of calling the attention of the trustees to the provisions of the Act of last Session, and of taking such measures as may be required for carrying the same into effect with as little delay as possible, my Lords desire that a separate letter be written to Mr. Bertolacci, directing him to proceed to the principal towns in the provinces of Munster and Connaught, where the respective Boards of Trustees are usually assembled, and to call their attention to the provisions of the Act, a copy of which has been transmitted to them. Desire he will represent to the trustees * * * *, &c.

Write to the Secretary to the Board of Ordnance, requesting that he will state to the Master-general and Board * * *; and that my Lords have accordingly appointed Mr. F. R. Bertolacci a clerk in the Surveyor-general's Office of the Ordnance, as the person best qualified to execute these duties by his abilities, and the peculiar experience possessed by him of the complicated transactions connected with the Fund.

Write to Mr. Redington, requesting he will call the attention of the Lord Lieutenant to the Act of last Session, which vests in Her Majesty the property of the Irish Reproductive Loan Fund, and will inform his Excellency that my Lords have, in pursuance of the provisions of the fourth clause of that Act, appointed Mr. F. R. Bertolacci to collect and receive the monies vested in Her Majesty by the same, and generally to carry out the provisions of the Act.

Request he will move his Excellency to give such directions to the constabulary, or other officers of the Irish Government, as may ensure to Mr. Bertolacci such aid and assistances, when in Ireland, as may be necessary to enable him to execute the duties entrusted to him.

(signed) *C. E. Trevelyan.*

Copy of a Letter from Mr. *John Abel Smith*, M.P. (Chairman of the late Irish Reproductive Loan Fund Governors) to Mr. *F. R. Bertolacci.*

My dear Sir, Belgrave-square, 21 June 1851.

You ask my opinion on four several points connected with the appointment you held as Secretary to the Governors of the Irish Reproductive Loan Fund, and I gladly give it; but think you will have all you want if I state shortly the purport of your questions as follow:—

1st. Was your appointment under the said Governors a permanent one?

2d. Was it probable that you would be deprived of it as long as you discharged the duties efficiently and usefully?

3d. Did you perform your duty in a manner satisfactory to the governors, and useful to the charity?

Here you have my answers:—

1st. I can conceive few appointments more permanent.

The body in queston had a specified sum vested in Consols for the payment of a secretary, and could not be dissolved without an Act of Parliament authorising them to lay down their corporate rights and functions.

I may further add, that when you were appointed, there was not the slightest intention of applying to Parliament for such an authority.

2d. It was certain, as far as I know and believe, that your appointment, when made, was considered to be for life, except in case of misconduct or inability to act.

3d. I know

3d. I know that there was but one opinion among the governors as to the energy and tact with which you applied yourself to the work in question; and there can be no question but that to your industry and zeal they owed the recovery of very considerable sums transferred to the Treasury.

I hope my reply is clear, and sufficient for the purpose.

I am, &c.

F. R. Bertolacci, Esq. (signed) *J. A. Smith.*

P. S.—As far as I can judge of an uncertain event (I feel bound to add) I believe, if the Irish Reproductive Loan Fund Board had continued, you would have received an increase of salary as far as the fund applicable to that purpose permitted it.*

EXTRACT from the Treasury Minute, dated 3 June 1851.

MY Lords advert to their minute of 11th February last, and to the Memorandum of Mr. Bertolacci referred to in that minute, showing the result of his correspondence during the previous six months with the trustees for the Irish Reproductive Loan Fund in the several counties in the West of Ireland in which that Fund has been circulated.

My Lords being anxious to bring the correspondence to a close, and the accounts connected with the fund to an equitable settlement as soon as possible, have since directed Mr. Bertolacci to prepare a plan with a view—

1st. To collect the balance of the Fund from the debtors of the trustees, instead of the trustees themselves, provided the latter shall afford their co-operation and assistance.

2d. To ascertain what are the sums of which the payment should be enforced, in consequence of the detention of the money in the hands of those for whose benefit it was not applicable.

3d. To define what sums might be relinquished, as being due from poor borrowers who could not be sued without causing distress, or being irrecoverable in consequence of the death or emigration of the borrowers.

It being their Lordship's intention, as soon as the accounts and materials necessary to ascertain these points had been collected, to depute Mr. Bertolacci to Ireland, for the purpose of finally settling those accounts on the spot, under their Lordships' directions.

* * * * * *

Mr. Bertolacci has accordingly prepared a set of forms, the returns to which he considers necessary before he can proceed to the final settlement of the accounts with each Board of Trustees.

My Lords approve of those forms, and direct that copies of them may be sent to the several County Boards for the Reproductive Loan Fund in Ireland.

EXTRACT from a Memorandum by Mr. *Leake*, dated 1 Sept. 1851, on the State of the Irish Reproductive Loan Fund.

As connected with the present state of this Fund, I wish to say a few words with respect to Mr. Bertolacci. His engagement for this service terminates on the 30th instant. If the proceedings under the Minute of 3d June continue, he will be required to examine an immense mass of very intricate accounts here, and afterwards to proceed to Ireland to settle the same finally on the spot, which cannot be done without very protracted and troublesome discussions with the parties concerned. He must therefore be engaged for a further period, and further leave of absence must be procured for him from the Board of Ordnance.

He is the only man properly qualified, by his experience in the previous correspondence, to undertake this business; and I hope that whether his services are continued or not, the great ability, zeal, and corectness of principle which he has shown in the execution of this very difficult and troublesome duty, may not be forgotten at the Treasury; and that if no opportunity should be afforded for making his valuable qualities available in a manner more useful to the public service, he may be so recommended on his return to the Board of Ordnance, that his long absence from his duties in that department may not be considered in a light detrimental to his interests.

1 Sept. 1851. (signed) *S. M. Leake.*

ADDENDA

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* This would have made the salary 300 *l.* per annum, as already alluded to by Mr. John George Shaw Lefevre.

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ADDENDA to the above by Sir *Charles Trevelyan*, viz.:

I ENTIRELY concur in this; Mr. Bertolacci has been indefatigable in the execution of his labourious and harassing task, and he has accomplished more than could have been expected under the circumstances.

(signed) *C. E. Trevelyan.*

EXTRACT from the Treasury Minute, dated 19 September 1851.

IN those cases in which the accounts called for have been produced, My Lords desire that Mr. Bertolacci will proceed to examine in detail the loans stated to have been made to the poor borrowers, with the information he may obtain as to the existence and precise circumstances of these borrowers, and as to enable him to execute this laborious work, it will be necessary that he should continue for some further time under the orders of this Board.

COPY of Letter from Sir *Charles Wood*, Bart., Chancellor of the Exchequer, to *John Abel Smith*, Esq., M. P.

Dear Smith, Downing-street, 26 February 1852.

I SHOULD have been very glad to have assisted your wishes and my own inclination to do something for Bertolacci, but you know well enough how difficult it is to provide for anybody out of the regular order.

His employment must continue for some time, and perhaps, when it is concluded, the existing Government will be disposed to consider his claim favourably. I shall always have great pleasure in bearing my testimony to the manner in which he has worked for the public in no very agreeable business.

Yours, &c.

J. A. Smith, Esq. (signed) *C. Wood.*

EXTRACT from Letter from Mr. *Leahe* (late Principal Assistant to the Secretaries to the Treasury) to Mr. *F. R. Bertolacci.*

My dear Sir, 3 March 1852.

I AM much obliged to you for showing me Sir Charles Wood's letter to Mr. John Abel Smith, in answer to the application of the latter to him in your favour.

I think Sir Charles says all that you could expect under the circumstances in which he was then placed.

As I believe I have been a closer witness of your services since you were connected with the Irish Reproductive Loan Fund than any other person, I consider it to be a duty I owe to you to state my impression as to the nature and extent of those services, and of the just claim they may give you upon the Treasury, now I have left that office; for, although I do not possess any influence which could be exerted in your favour, I think my statement of facts may perhaps be attended to, on considering your case.

Since your first appointment by the governors under the Charter of the Irish Reproductive Loan Fund, your duties have been extremely difficult and laborious; the transactions you have had to deal with are, in their nature, very intricate, and had been involved, before your appointment, in great confusion, which was increased by the almost incredible artifices employed by the trustees of counties and managers of local associations and their agents to evade the payment of the sums clearly proved to be due from them or the accounting for them in any way; in meeting these difficulties, you have displayed not only great acuteness in detecting the fallacies you have had to encounter, but perfect fairness and impartiality in stating the accounts which have come before you, and you have succeeded, without having had recourse to any actual legal proceedings, in recovering a considerable sum of money.

You are now engaged in a very intricate and laborious investigation, in which you receive scarcely any assistance from the trustees, for the purpose of ascertaining what further sums, which remain due, can without oppression be recovered from the borrowers through the trustees, and what may with propriety be remitted.

I can testify that, in the execution of these duties, you have displayed an unusual degree of zeal and devotedness.

I have been frequently obliged to urge you to remain at home for the sake of your health, which was suffering from your exertion, and when engaged on duty in the west of Ireland, I believe you have, more than once, run the risk of your life from fever.

COPY

Copy of Treasury Minute, dated 22 October 1852.

Write to the Secretary to the Ordnance for the information of the Master-general and Board, and state, with reference to the observation contained in their present communication, "that Mr. Bertolacci's present position in the Cash Account Office of the Ordnance Department is such that a short time may require his promotion from the junior to the senior class, and that it is greatly to be feared that Mr. Bertolacci's already protracted absence from his regular duties, if continued much longer, will necessarily preclude him from obtaining the certificate of qualification indispensable to his promotion as a senior clerk;" that the duties upon which Mr. Bertolacci has been engaged in their Lordships' office consist in the supervision of intricate and elaborate matters of account, requiring much accuracy as well as intelligence for their proper discharge; such as my Lords would hope will qualify him for the higher grade in his own department; and that my Lords have reason to be entirely satisfied with the manner in which he has brought the business to its present advanced stage.

The Appointments, &c., held by the Relations of Mr. *Francis Robert Bertolacci* in the service of the State, and the Services rendered by them.

My grandfather, Pascal Bertolacci was a Privy Councillor of Louis the XVI. of France; he was also Chief Justice and President of the Supreme Court of Judicature in Corsica. When the inhabitants of that island, in 1794, made an effort to free themselves from the Republican Government of France, he and his relations were most prominent and efficient in aiding the plans of the English Government to annex the island to the British dominions.

When the late Sir Gilbert Elliot was Viceroy, my grandfather held the same appointments of Chief Justice and President of the Supreme Court under the English Government, and his younger brother, Louis Bertolacci, was appointed Postmaster-general of the island.

At the evacuation of Corsica by the British troops, my grandfather (after having been judge for 25 years) having compromised himself by his alliance with England was, with all his relations, obliged to leave the island, and the family estates, which were considerable, were confiscated by the Republic of France.

My father, Anthony Bertolacci, when Corsica was annexed to the British Crown, held the situation of Principal Assistant in the office of the Secretary of State in that island. At the withdrawal of the English forces, my father left with the Honourable Frederick North (afterwards Earl of Guilford), and accompanied him to Ceylon, whither his Lordship went as Governor.

In Ceylon, my father remained 17 years in the public service, during which time he held in succession the following appointments, viz., Deputy Commissary of Musters to Her Majesty's Troops, Postmaster-general, Agent to Government, Comptroller-general of Sea Customs, and acting Auditor-general of Civil Accounts. While he was Postmaster-general, the expedition to Egypt of the British forces took place, and when the troops and fleet were collecting at the port of Trincomalee, there was an extraordinary inundation of the country between Manar and that port, which stopped the communication between the Government of India and the fleet. By my father's knowledge of the country and his exertions, the communication was re-established. In the performance of this duty (which entailed on him the necessity of travelling through the then deserted parts of the island during the monsoon), he was seized by the jungle fever, to which he nearly fell a victim. He was twice afterwards affected by the same complaint when performing his tours of the island as Postmaster-general, which destroyed his constitution and shortened his life.

When he was Comptroller-general of Customs, he reorganised the whole of that department upon a new system, and Sir Thomas Maitland, then Governor of the island recorded his approbation of this service by my father, which had augmented the revenue, and encouraged the native merchants. At the time he filled the situation of Auditor-general of Civil Accounts conjointly with that of Comptroller-general of Sea Customs, the Government found that the expense of the Mint was very onerous, and applied to my father to inspect and direct that department, with a view to economise the public expenditure. My father, therefore, undertook, in addition to his other offices, the management of the Mint, without any extra emolument, although he had already to devote the hours of rest to the performance of his double duties, and by his measures he reduced the expense of coining from 27 and 28 per cent. to 7 and 8 per cent. General Wilson, who was then Lieutenant-governor of the island, sent, in his despatches to the Home Government, a statement of these services by my father, and, moreover, entered a minute in Council, recording his thanks to him for his exertions.

In the year 1812, a dearth caused a scarcity of food, which resulted in much suffering to the native population, but it was acknowledged that the measures proposed by my father, and carried out by him, saved many thousand lives, and deputations afterwards came to return thanks to him.

In addition to the foregoing situations, my father executed the office of sitting magistrate in Ceylon for many years.

On my father's retirement from the public service in Ceylon, in consequence of the state of his health, his conduct in the island was favourably represented to His Royal Highness

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the Prince of Wales, when Regent, and on the testimony borne of his services by the Governors under whom he had served, including the late General Sir Robert Brownrigg, Lord Liverpool promised to appoint one of his sons to a situation in the Treasury, but the calamity which befell that minister prevented the realisation of the promise.

After my father's retirement from the service, he published, with the information he had collected in the island, a statistical work, entitled "A view of the Agricultural, Commercial, and Financial Interests of Ceylon; with Appendix, containing some of the principal Laws and Usages of the Candians, Port and Custom-house Regulations, Tables of Exports and Imports, Public Revenue and Expenditure."

Soon after my father left Corsica with the Honourable Frederick North, he embraced the Protestant faith, in which he educated his family. On my mother's side, my great grandfather was Archdeacon Hewetson, of Kilkenny. His sons were Colonel Robert Hewetson of the Guards, Major Hewetson, and Captain Christopher Hewetson (my grandfather), who served in the American War, and was afterwards paymaster of the 39th Regiment. My mother's brothers were in the service of the East India Company, namely, John Hewetson, who was the resident at Fort Edward, Benculan; Captain Nicholas Hewetson of the Madras Army, who was at the siege of Seringapatam; and Captain William Hewetson of the Bombay Marines, who was Commodore of one of the East India stations.

MEMORANDUM by Mr. *Leake*, the Principal Assistant to the Secretaries to the Treasury, Minutes 21,255 and 22,027, on 3 October 1848, appointing Mr. *F. R. Bertolacci* to conduct the Business of the Irish Reproductive Loan Fund for the Treasury.

IN preparing a minute for carrying into effect the Act of 11 & 12 Vict. c. 115, which transfers the management of the Irish Reproductive Loan Fund to the Treasury, it was proposed that the following allowances should be made to Mr. Bertolacci, who was to be employed in that business; viz.

1st. Three hundred pounds per annum to be paid out of the fund until the business was completed, but not at any rate to continue more than three years from the passing of the Act.

2d. When directed to go to Ireland he was to be allowed, out of the fund, his actual travelling expenses, and an allowance say, 15 *s.* per diem for subsistence.

3d. In case the Board of Ordnance should make any deduction from his Ordnance salary, in consequence of his absence from his duties in that department, should be made up to him out of the fund.

The foregoing allowances will, I think, appear to be no more than what may be reasonably and properly granted to him when the following facts are considered.

The allowances are not to be paid out of the public money, nor out of money appropriated by the first subscribers to the fund to be employed in making loans to the poor in Ireland, but out of a sum of about 10,000 *l.* especially set apart by the original committee for paying the expenses of management.

Out of this fund, Mr. Bertolacci's predecessor received a salary of 300 *l.* per annum. On his death, Mr. Bertolacci was appointed, with a salary of 200 *l.* only, though beyond compare more efficient. His duties under the Treasury, will, if possible, be more responsible and arduous than those entrusted to him by the governors of the fund, and in fact they are such as it is doubtful whether another person could perform, but the duration of his emoluments will be reduced to three years; and the demands on the above sum of 10,000 *l.* will be in proportion reduced, so that a considerable sum will probably remain, which may be added to the fund applicable to works of utility in Ireland.

On these grounds Mr. J. A. Smith represented to Sir Charles Trevelyan the propriety of ensuring a salary of 300 *l.* to Mr. Bertolacci for three years; and so fully was he satisfied that the additional 100 *l.* per annum would be granted to him for that time, that in proposing a vote to the governor of a permanent compensation to Mr. Bertolacci of 100 *l.*, it was granted to commence only after the expiration of three years, it being considered as certain that the additional 100 *l.* would be granted for the first three years by the Treasury.

(signed) *S. M. Leake.*

Appendix, No. 13.

DUCHY OF LANCASTER.—SOUTH ELMSALL.

A PARTICULAR, preparatory to a GRANT in FEE to Mr. *George Herring.* Appendix, No. 13.

ALL that plot, piece or parcel of land, containing 7 A. 3 R. 15 P., or thereabouts, situate, lying and being in the township of South Elmsall, in the parish of South Kirkby, in the county of York, late in the tenure or occupation of David Rowley, bounded on the east by glebe lands belonging to the Vicar of South Kirkby aforesaid, on the west by lands belonging to the said George Herring, on the north by the Frickley Lane-road, and on the south by the township of Hutton Pagnall (which said plot, piece or parcel of land was set out and allotted to his late Majesty King George the Third, by the award of the Commissioner appointed under an Act of Parliament for inclosing lands in the townships of South Kirkby and South Elmsall, in the parish of South Kirkby, in the West Riding of the county of York), together with all and singular ways, paths, passages, waters, watercourses, and the ground and soil thereof, hedges, ditches, fences, liberties, privileges, easements, profits, commodities, advantages, emoluments, rights, members and appurtenances whatsoever to the said plot, piece or parcel of land belonging or in anywise appertaining.

By an Act of Parliament made and passed in the 48th year of the reign of his late Majesty King George the Third, intituled "An Act to improve the Land Revenue of the Crown in England, and also of his Majesty's Duchy of Lancaster," it was (amongst other things) enacted, that it should be lawful for the Chancellor and Council of the Duchy of Lancaster, for the time being, to sell and dispose of to any person or persons, bodies politic or corporate, from time to time, and thereupon to grant and assure in the name of his Majesty, his heirs and successors, under the seal of the said Duchy, such manors or lordships belonging to the Crown as were within the survey and receipt of the said Duchy, and as consisted of manorial rights, without any lands, or with very small quantities of land belonging to them, and where the greater part of the lands over which the manorial rights extended was the property of individuals, and of manors or lands of which his Majesty, in right of his Duchy as aforesaid, was not the sole proprietor, but was entitled to an undivided share jointly with individuals, and intermixed with the property of individuals, and lying remote from other property belonging to the Crown, for the best prices or considerations in money which the said Chancellor and Council should be able to procure for the same, and that the purchase-money to be paid for the same should from time to time be paid into the hands of the Receiver-general of the revenues of the said Duchy, in the like manner as the monies arising from the sale of lands of the said Duchy, authorised by certain Acts of Parliament, made and passed in the 38th and 42d years of his said late Majesty, are directed to be paid, and that all sales made under that Act of the property thereinbefore described should be made in the same manner and form, and under the like rules, regulations and provisoes, and should be to all intents and purposes as valid and effectual as if the same had been made under the said recited Acts of the 38th and 42d years of his said late Majesty, or either of them.

The value set upon the above allotment by Richard Clapham, gentleman, surveyor of lands for the north parts of the Duchy, is 230 *l.* 10 *s.* 8 *d.*; and I am humbly of opinion that, as the said allotment lies remote from other property belonging to Her Majesty in right of her Duchy, it will be fit and proper to grant the same in fee, and more beneficial to do so, on payment of the said sum of 230 *l.* 10 *s.* 8 *d.*, than to retain the land and to let it at any rent which could be procured for it.

I have made forth this particular in obedience to a warrant from the Right Honourable Lord Granville Charles Henry Somerset, Chancellor of Her Majesty's Duchy and County Palatine of Lancaster, and one of Her Majesty's most Honourable Privy Council, bearing date the 28th day of July 1843.

(signed) *J. G. Lockhart*, Auditor.

Prepare a grant to pass the seal of Her Majesty's Duchy of Lancaster unto George Herring, of Shelbrooke, in the county of York, farmer, of the allotment of land above particularly described, with all the rights, members and appurtenances to the same belonging, and therewith occupied, to hold the same unto the said George Herring, his heirs and assigns for ever, in free and common socage, as of the honour of Pontefract, in the county of York, without any account to be rendered to Her Majesty in respect thereof, upon payment being first made of the said sum of 230 *l.* 10 *s.* 8 *d.* into the hands of the Receiver-general of the said Duchy, for Her Majesty's use. And for so doing this shall be your sufficient warrant. Dated this 29th day of July, in the Seventh year of the reign of Her Majesty Queen Victoria, and in the year of our Lord 1843.

To the Clerk of the Council of Her Majesty's Duchy of Lancaster.

(signed) *G. C. H. Somerset.*

Appendix, No. 14.

Appendix, No. 14. LIST of BILLS delivered to Mr. *Bertolacci* during the time he was Auditor of the Duchy.

1. Messrs. Johnson.—Incroachments at Runcorn; dated 12 June 1854.

2. Mayor, &c. of Salford.—Land at Salford; dated 15 June 1854.

3. North Staffordshire Railway Company.—Land at Etruria; dated 17 June 1854.

4. William Boardman.—Land at Farrington; dated 12 August 1854.

5. St. Helen's Canal and Railway Company.—Land at Garston, in the parish of Childwall; dated 12 August 1854.

6. Edward Chaloner.—Land and Cottages at Oldcoates, Notts; dated 27 December 1854.

7. John Brooks.—Land at Salford; dated 25 May 1855.

8. Aaron Wetherall.—Land at Pendleton; dated 25 May 1855.

9. Duke of Newcastle.—Bailiwick of Barsitlow, Ultra and Citra Trentham, &c.; dated 2 June 1855.

10. *Re* Focke, to F. D. Danvers, in Trust.—Land, Houses, &c., at Wavertree; dated 14 July 1855.

Appendix, No. 15.

Appendix, No. 15. PETITION of Mr. *Francis Robert Bertolacci.*

To the Honourable the Commons of the United Kingdom of Great Britain and Ireland in Parliament assembled.

The PETITION of *Francis Robert Bertolacci.*

Humbly showeth,

THAT your petitioner was appointed auditor of the Duchy of Lancaster, by Her Majesty's Letters Patent.

That, without the sanction of Parliament, changes and deprivations (as hereinafter stated) were illegally and unconstitutionally made by the then Chancellor of the duchy, of the rights and powers of the auditor, by which his functions were curtailed and rendered ineffective, at a time when a minute had been made by the Chancellor postponing the payment of arrears of rent due by Earl Granville to the duchy; and that, subsequently, his Lordship took the office of Chancellor of the duchy, and carried into effect the restrictions so placed on the checks which should have been exercised by your petitioner over the proceedings connected with the duchy property; and that the Earl of Harrowby, who succeeded Earl Granville, acted upon the measures adopted by Earl Granville; and, notwithstanding that your petitioner held his appointment by Letters Patent from the Queen, assumed the power of superseding his patent, because your petitioner did not, as auditor, pass the accounts before he had sufficiently inquired into the past transactions relating to the duchy property, which facts are more fully shown, as follow:—

1. That the Duchy of Lancaster is an institution of antiquity; that the court of the duchy as a court of equity and the council of the institution "are one and the same in their origin and constitution, and differ only in their functions and use;" that "they are both of equal authority

authority and equal antiquity and date, at least, from the first institution of the duchy," which facts have been ascertained by the researches of the clerk of the records of the duchy, and were so stated in writing by him to your petitioner on 31st January 1855.

2. That, as is shown by the charters of the duchy, and by the Acts of Parliament, the management and control of the property of the Duchy of Lancaster was, and still is, by law confided to the Chancellor and council of such duchy acting jointly.

3. That the auditors of the Duchy of Lancaster have formed part of the court of that duchy, which fact is recorded in Coke's Institutes, part 4, chapter 36.

4. That formerly there were two auditors, namely, one for the north and the other for the south part of the duchy, whose offices were subsequently united and held by one person, called the auditor of the Duchy of Lancaster, and a statement to this effect was made in writing to your petitioner by the clerk of the records on 22d December 1854.

5. That these auditors having, from the origin of the duchy, been admitted to its councils, the means were thereby placed within the scope of their office, of obtaining a full knowledge of the extent of the property of the duchy, and of the circumstances which from time to time might enhance or otherwise affect its value, as well as the amount and the particular items of its revenues and expenditures, without being dependent on the Chancellor, or other officers for such information.

6. That although from the auditors having in more recent times considered their office as a sinecure, such means of acquiring information for the purpose of a vigilant check over the property of the duchy, may have fallen into disuse, yet the office of auditor had never been divested of the constitutional position and powers appertaining to it.

7. That such position and powers having been granted to the auditor by the earliest Parliamentary Charters and Acts relating to the duchy,* and recognised (amongst other Acts) by the Acts of 19 Geo. III., c. 45; 34 Geo. III., c. 75; 38 Geo. III., c. 60; 42 Geo. III., c. 116; and 48 Geo. III., c. 73, granting and confirming certain functions and powers to the council of the duchy, then composed of particular officers (including the auditor), the position, functions, and powers of the office of auditor could not be abrogated nor legally controlled, nor in any way interfered with, except by an Act of Parliament.

8. That it is shown by the memorandum of the clerk of the records, dated 31st January 1855, already referred to, that the auditor, by his office, has always been required to be a party to any sale of duchy property, for in that memorandum the clerk of the records says, "The bill which is the authority for the grant in fee, had heretofore been prepared by the clerk of the council, by the Chancellor's direction, upon a particular, signed by the auditor, his" (the clerk of the council's) "signature, therefore, vouched for the agreement of the premises mentioned in the bill with the auditor's particular of the same, which particular having been grounded on the surveyor's report, and signed by the auditor, his" (the clerk of the council's) "signature was his certificate that the terms of the particular were in accordance with the report of the surveyor." "I am not able to refer to any prior Act or minute of the court, authorising the affixing of the signature of an officer to bills for grants in fee or otherwise. It would, indeed, seem to have arisen from the necessity of the case, and to have been coeval with the establishment of the duchy, that the Chancellor should require some voucher, that the bill corresponded with the particular upon which it was prepared, and the signatures of the clerk of the council, by whom the bill was prepared, and of the attorney-general, by whom it was settled and approved, would, therefore obviously have been required." That the auditor being an officer of check has, consequently (first, by his particular, and afterwards by the substitution of his signature to bills in lieu of that particular), been not only an auditor of the income and expenditure of the revenues of the duchy, but also a guardian of its estates.

9. That by the Acts above quoted in the seventh paragraph of this petition, the Chancellor of the duchy was clearly precluded from exercising any absolute power over the council or property of the duchy, as he was by those Acts required to act jointly with the council of the duchy in all matters relating to the governance of the duchy property.

10. That Mr. John Gibson Lockhart having resigned the office of auditor of the Duchy of Lancaster, your petitioner was, on 15th May 1854, appointed to that office by Her Majesty's Letters Patent, sealed with the seal of the duchy, and also with the seal of the County Palatine of Lancaster; and that by such letters patent he was authorised to "hold, enjoy, exercise, and occupy the office of auditor of the Duchy of Lancaster, and of the County Palatine of Lancaster, heretofore held by John Gibson Lockhart, Esq.," by which means the powers and privileges heretofore possessed by auditors of the duchy were lawfully vested in your petitioner.

11. That the office was given to your petitioner in consequence both of public services and of testimonials of efficiency, in the discharge of matters connected with the investigation of public accounts, and this fact was so stated on the 15th December 1854 by Lord Belper (then the Right Honourable Edward Strutt) Chancellor of the Duchy.†

12. That

* (Interalia) 1 Henry IV., 2 Henry V., 1 Edward IV., and 1 Henry VII.

† *See* Statement in the House of Commons on 15 December 1854, by Mr. Strutt.

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12. That on your petitioner's acceptance of the office he was required to take, and did take, an oath to "well and truly serve the Queen," and to perform all the things which appertained to the office of auditor truly, and to the best of his ability and power.

13. That on your petitioner's appointment as auditor, the Chancellor of the duchy intimated to him that the office was no longer to be considered a sinecure, but that it was to be "a working office;" and he expressed a desire that your petitioner should specially look into the accounts with reference to the arrears of rent due to the Sovereign, and that he should endeavour to remodel the system of the duchy accounts generally, so as to present them to Parliament in a more intelligible form than heretofore.

14. That at the same time that Lord Belper (then the Right honourable Edward Strutt) made this communication, he also said he wished your petitioner to see whether any portion of the large amount of rent then in arrear, and yearly brought forward in the receiver-general's account, could be struck out as being irrecoverable.

15. That for this purpose it was necessary your petitioner should make every possible inquiry into all the circumstances connected with the past transactions of the duchy property.

16. That your petitioner, on 30th May 1854, examined an account rendered to him by the clerk of the council of contingent or incidental expenses, and having observed the omission of any reference thereon to the warrants for such expenses, as well as the fact that there was no witness to the receipts which were produced as vouchers, your petitioner committed his remarks to paper, and submitted them, with the account, to the Chancellor, with a view to the account being in future rendered to your petitioner in a more complete manner.

17. That this account and the remarks on it having been deposited by the Chancellor with the clerk of the council, the clerk of the council, of his own accord, wrote a letter to your petitioner on the 2d June 1854, criticising his conduct in making remarks on the account, and stating that the previous auditors had passed similar charges without such remarks, to which observations your petitioner replied, on 3d June 1854, that no personal reflection was intended against him (the clerk of the council); but that if the auditor was liable to be called to account (by those who, in fact, were responsible to him) for the remarks he might officially find it to be his duty to make, his office would thereby become a nullity.

18. That shortly after this, Lord Belper (then the Right honourable Edward Strutt) resigned the office of Chancellor of the duchy in the month of June 1854, and was succeeded therein by Earl Granville.

19. That your petitioner on 26th June 1854 called at the duchy office, and stated to the clerk of the council (who had charge of the minutes of the court or council of the duchy, which from time to time had been made for the governance of the duchy property) that he wished to peruse the minute book, before commencing the audit of the receiver-general's account; and your petitioner informed him at the same time, that his object was to acquire a full knowledge of any circumstances connected with those accounts, and with the business generally relating to the duchy property.

20. That on this occasion the clerk of the council refused to allow your petitioner free access to the minutes; and he alleged, as a reason for such refusal, that your petitioner was not a member of the council, because when he accepted the office of auditor, the Chancellor had told him he would not be required to attend every meeting of the council.

21. That your petitioner made a memorandum on 26th June 1854, of the circumstances connected with this refusal, and transmitted a copy of it to the clerk of the council.

22. That the clerk of the council, by refusing your petitioner free access to the minutes, and by claiming the power of withholding any minutes which, in his judgment, might not belong to the duties of the auditor, unlawfully assumed a control subversive of the effectual discharge of the functions of auditor, by constituting himself judge of the degree of information necessary for that officer to check the accounts and other acts and proceedings connected with the duchy property.

23. That the clerk of the council attempted to exercise these restrictive powers over your petitioner whilst he was himself a party accountable to the auditor for sums received from the duchy, and to be accounted for, for fees received on behalf of the duchy, and for monies arising out of the distribution of grants by the Queen of escheated property, which respective items could only be ascertained by an unrestricted perusal of the minutes by your petitioner.

24. That these proceedings of the clerk of the council were in contravention to Her Majesty's letters patent, vesting in your petitioner the constitutional powers, rights, and privileges of auditor of the Duchy of Lancaster, and of the County Palatine of Lancaster.

25. That on 17th July 1854 your petitioner wrote to Earl Granville at his residence, stating that he was anxious to have a private interview with his Lordship on the business of the Duchy of Lancaster, and hoped he would do him the honour to appoint a time when he might wait on his Lordship for that purpose.

26. That

26. That your petitioner, not receiving any reply, wrote a second letter on 24th July 1854, which he addressed to his Lordship at his private residence, as before, repeating his request, which, however, was answered by the clerk of the council on 28th of the same month, stating that Lord Granville would see your petitioner the next morning at his Lordship's house in Bruton-street.

27. That your petitioner, on the following day (the 29th July 1854), stated to Earl Granville the facts relative to the refusal of the clerk of the council to allow him free access to the minutes.

28. That at this interview your petitioner also brought under his Lordship's notice other matters respecting the peculiar functions of the auditor of the Duchy of Lancaster, and pointed out that it appeared by the charters of the duchy, as well as by the oath which the auditor takes on accepting office, that he was, by virtue of that office, a member of the council of the duchy. Further, your petitioner explained to his Lordship, that without he was allowed to exercise the powers of a member of the council, which appertained to his office of auditor, he could not properly check and sign the documents to which he was required to attach his signature.

29. That upon hearing what your petitioner had thus stated, Earl Granville desired him to commit to paper the substance of his communication, in order that his Lordship might consult the other members of the council thereon.

30. That, accordingly, on the 4th August 1854 your petitioner addressed a letter to Earl Granville, enclosing a statement of the facts which had been alluded to in the conversation with his Lordship.

31. That it was not until the 20th November 1854 that the obstruction set up to your petitioner's unrestricted perusal of the minutes was nominally removed by the letter then written to him by the clerk of the council, as follows:—"I beg to acquaint you, that it being thought desirable that the minutes of the council should be open to the inspection of the auditor in the prosecution of his duties, it has been ordered that the auditor should henceforth have access to the same. (Signed) *F. D. Danvers.*"

32. That, by a letter which Earl Granville wrote to your petitioner on 4th December 1854, he was made acquainted with the resolution of his Lordship, and other parties acting as members of the council of the duchy, not to allow the auditor to take his seat at the council.

33. That the perseverance of the Chancellor and other parties at the council, in excluding the auditor, virtually nullified the order which allowed him free access to the minutes, as the entries in the minute-book of the duchy are not made at the council, but are made afterwards under the superintendence of the clerk of the council, and (as is the practice in public departments) subjects might be discussed, and orders made affecting the property, without being entered in what is termed the "fair minutes."

34. That your petitioner, in his capacity of auditor of the duchy, was called upon by the Chancellors to sign bills, by which the Queen was advised to part with portions of the hereditary lands of the duchy, in consideration of certain sums stated in such bills to be the best price and consideration money which could be obtained for the lands; yet the property so to be sold had never been offered to public competition to ascertain the sum which could be obtained for it, but the price had been settled by the Chancellor and the clerk of the council, before your petitioner was aware that any intention existed to sell the property.

35. That the clerk of the council, on 8th June 1854, first called on your petitioner to sign (as auditor) deeds, authorising the sale of the duchy property, and then transmitted three bills to him for that purpose, at the same time representing, merely, that the auditor's signature was required to comply with an order of the court, dated 16th August 1844; but your petitioner, by subsequent inquiry, and by the researches of the clerk of the records, on 31st January 1855, afterwards discovered the real object of the auditor's signature to such deeds to have been misrepresented to him, as it was, in fact, a substitution for the examination which the auditor formerly made of the surveyor's reports, preparatory to the bills for the sale of the property being drawn up, on the production of such reports, after they had passed the auditor. That the clerk of the council, in his letter, asked your petitioner to sign and return the three bills, without your petitioner having had even the opportunity of seeing any report of the surveyor, or order of the court on the subject, and when, on the same day, your petitioner went to the duchy office, to see what order of the court sanctioned the sale of the property, which was set forth in the bills which had been transmitted to him for his signature, the clerk of the council (who had no order signed by the Chancellor or other member of the court, but merely the draft of a minute on the subject) evinced vexation and disappointment at your petitioner taking such a precaution, and said that if he required to see the orders of the court, before signing such documents, he would throw impediments in the way of the business; which facts were represented to the Chancellor by your petitioner in a letter addressed to Lord Belper (then the Right honourable Edward Strutt) on 9th June 1854.

 36. That

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36. That your petitioner, by letters to the Right honourable Edward Strutt (now Lord Belper), on 9th June 1854, and to Earl Granville, on 4th August 1854, called the attention of the Chancellors of the duchy to the insufficient surveys and valuations upon which engagements had been made to sell portions of the duchy property, whereby the interests of the Sovereign had been compromised. That although the Chancellor had agreed to sell to a party some property of the duchy according to a valuation placed on it by Mr. Legard, the surveyor of the duchy, yet when your petitioner wrote to Mr. Legard on the 4th December 1854, calling for information on material points, or affecting the value of the property, he replied on 7th December 1854, saying that he could not answer the questions without making further inquiry.

37. That this correspondence with Mr. Legard was shown by your petitioner to Earl Granville on 16th December 1854.

38. That your petitioner was called upon, as auditor, to sign also the draft of leases, as a warrant to the attorney-general of the duchy, for the correctness of the facts therein stated, before such leases were submitted to the attorney-general for his signature.

39. That such leases were carelessly drawn up by a clerk in the duchy office without being submitted to the solicitor, and your petitioner made remarks thereon, which he transmitted to the clerk of the council on 21st October 1854, to be laid before Earl Granville; that the clerk of the council, by letter of 24th October 1854, said the Chancellor had read those remarks, and wished him to have a consultation with your petitioner before they were transmitted to the conveyancing counsel; and your petitioner consequently communicated with the clerk of the council, when that officer admitted that both the Chancellor and himself agreed the surveyor's reports ought to be submitted to the auditor, to be checked before he signed the leases, and the substance of the conversation which then took place was recorded in the addenda to the remarks which your petitioner made and transmitted to the clerk of the council, in a letter of 25th October 1854; and in writing to your petitioner on 28th November 1854, he said, "fresh forms of clauses for duchy leases have been prepared by the conveyancing counsel of the duchy."

40. That, although it was on 10th August 1854 admitted by Earl Granville and the clerk of the council, that the auditor had always had access to the surveyor's reports and valuations, and although the clerk of the council, in his letter of 22d August, referring to what had then transpired, said to your petitioner, "In reply to your inquiry, I beg to inform you that Lord Granville desired me to prepare the draft of a minute, to be considered at the next council, for giving you free access to the minutes of the council, and also for referring to you the valuations of the surveyors, prior to their being finally confirmed by the court;" yet, upon your petitioner making the remarks on 21st and 25th October 1854, above alluded to, respecting the valuation and conveyance of the property, and upon his calling on the surveyor, by letter of 4th December, to furnish the necessary particulars of the extent and nature of the property, in order to ascertain its real value, before signing the authorities for the sale of it, it was decided by his Lordship and the council, that the auditor should be required to sign the deeds for sales and leases, without the surveyor's report and valuation being first submitted to him, or his exercising any check on the value which might be placed on the property, and such decision was impressed on your petitioner's notice by the substance of letters from the clerk of the council on 20th and 21st November 1854, and his Lordship's personal communication on 16th December 1854, by letter from the clerk of the council on 19th December 1854, and by the 11th paragraph of Lord Harrowby's letter of 4th May 1855, insisting that your petitioner was under a mistake in considering that his signature (as auditor) to bills certifying that the best price and consideration money had been obtained for the property, was intended to convey the idea of any check having been exercised by him on the sum for which such property should be sold; that the auditor was not, by virtue of his office, a member of the council of the duchy, and that he was bound to sign the bills authorising the sale of the duchy property, on the mere production to him of a minute purporting to be by the Chancellor and council of the duchy.

41. That your petitioner, in addition to his signature to the bills themselves, was called upon to sign a certificate at the foot of such bills, stating that they had been prepared pursuant to a minute of the council of the duchy.

42. That the minutes of the Chancellor acting alone, were produced to your petitioner as an authority for preparing the bills for the sale of the property. That such minutes were by the officials of the duchy acting under the orders of the Chancellor, assumed to be actually the orders of the Chancellor and council. That your petitioner, in his letter of 9th June 1854, to Lord Belper (then the Right honourable Edward Strutt), alluded to his Lordship having acted alone, in ordering the sale of duchy property; that the clerk of the council, in a letter of 22d January 1855, alleged (in contravention to the Acts of Parliament, hereinbefore referred to) that the Chancellor had absolute power over the duchy property, and the clerk of the records, on the 31st January 1855, made the same assertion, but in neither case was any authority quoted for such assertion.

43. That these several obstructions to your petitioner exercising the functions of check which appertained to his office, were based on the assumption that he was not a member of the council;

council; but your petitioner was, notwithstanding, called upon by the Chancellors to give the same sanction to proceedings affecting the disposal of the duchy property as his predecessors had done, who were not excluded from the Council, and who therefore were not deprived of their means of check.

44. That your petitioner urged on the attention of the chancellors the fact, that the auditor was, by virtue of his office, a member of the council of the duchy, and that, being an officer of check, he ought to have the opportunity of satisfying himself that the amount named in the bills, which he was called upon to sign, was the full value of the property about to be sold, before he attached his name and the title of his office to such bills, attesting that to be the fact preparatory to their being submitted to the Queen for Her Majesty's signature, assenting to the disposal of the property.

45. That this view of the matter was supported by your petitioner's statement to Earl Granville, dated 4th August 1854, referring to the charters of the duchy, showing that the property of the Duchy of Lancaster was subject to a trust of a permanent and constitutional nature for the benefit of the Sovereign; and that the auditor was, by his office, a constituent and component part of the council of that trust; by a document emanating from the clerk of the records of the duchy, on 31st January 1855, as the result of his researches, in which he stated that the court and council of the duchy "are one and the same in their origin and constitution;" and by two other statements, dated 2d February and 10th March 1855, further calling the attention of his Lordship to the same fact, that the auditor belonged to the council of the duchy, and your petitioner quoted a passage from Coke's "Institutes," part 4, c. 36, in evidence of the fact, as it was therein stated that the auditor was one of the court.

46. That an opposite view of the matter was, however, insisted on by Earl Granville and the Earl of Harrowby, to oblige your petitioner to affix his signature to the bills for disposal of the duchy property, but without allowing him to question whether the amount for which the property was to be sold was its full value or not, which fact your petitioner can prove by the correspondence of these noblemen and the clerk of the council with your petitioner,* if allowed to produce it to your Honourable House.

47. That no reference has been made by Earl Granville, the Earl of Harrowby, nor by Mr. Danvers, the clerk of the council, to any law or usage in support of their endeavours to supersede the legal authorities quoted by your petitioner, while the language used by the Earl of Harrowby has been both ambiguous and calculated to misrepresent the facts of the case. First, by evading the question whether the auditor of the Duchy of Lancaster actually was, or was not, by virtue of his office, a member of the council of that duchy; and, secondly, by attempting to make it appear that your petitioner was setting up a claim to a new position for the auditor, instead of merely defending that office against an encroachment on the privileges and deprivation of the powers which it had always possessed; his Lordship's words being (in his letter of 4th May 1855) "the law officers of the duchy have stated that they are of opinion most clearly that the auditor has not by the arguments referred to established any right to claim a seat at the council."

48. That notwithstanding the foregoing opinion, your petitioner refers in confidence to the several charters and Acts relating to the duchy, to Coke's "Institutes" already alluded to, and to the Official Calendars, yearly published, on authentic information from the various departments under the Crown, as substantiating the fact, which has always existed (and until your petitioner's appointment was never opposed or even questioned), that the auditor is *ex officio* one of the council of the duchy.

49. That it was not until your petitioner attempted to inquire into the past transactions connected with the duchy property, that the minute of the Chancellor of the duchy recording your petitioner's appointment to the office of auditor was interpreted as totally excluding him from the council, which minute, however, your petitioner respectfully submits could not change the constitution of the duchy, nor abrogate the auditor's functions and privileges.

50. That your petitioner was also called upon to sign bills, under minutes of the Chancellor, by which the Queen was advised to constitute the clerk of the council (Mr. Frederick Dawes Danvers) sole trustee for the sale and distribution of the proceeds of escheated property granted by Her Majesty to the relatives of the deceased proprietors.

51. That your petitioner was (by the attempts made to place him in a subservient position) precluded from questioning any of the collateral circumstances connected with such escheated property. That not being acquainted with the signatures of the recipients of the proceeds of the property, any subsequent audit by him of the distribution of such proceeds could be only an empty formality, as the Earl of Harrowby had (notwithstanding the urgent representations by your petitioner of the necessity of the payments being witnessed) supported the clerk of the council's objection to make his payments in the presence of

* From Earl Granville, dated 4th December 1854. From Mr. Danvers, dated 19th December 1854; 21st December 1854; 18th January 1855; 30th January 1855. From F. R. Bertolacci to Mr. Danvers' dated 5th February 1855. From Mr. Danvers, dated 6th February 1855. From Earl Granville, with instructions, dated 2d March 1855. From the Earl of Harrowby, dated 4th May 1855. From Mr. Danvers, dated 18th May 1855; 5th July 1855; 11th July 1855.

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of an attesting witness, and to produce to the auditor vouchers properly witnessed; all which statements your petitioner is, if permitted, ready to verify by the production of documents dated 4th May 1855, 19th May 1855, and 6th June 1855.

52. That your petitioner has reason to believe that about 15 years back a lawsuit was carried on between the Queen on one side, in right of her Duchy of Lancaster, and Her Majesty on the other side, on behalf of the Crown, for the right to escheats, and that this lawsuit was carried from court to court at a cost to the duchy, as you petitioner is informed on excellent authority, of at least 10,000 *l.*, which expense might have been avoided by an adjustment of the question at a conference between two Cabinet Ministers, namely, the Chancellor of the duchy and the First Lord of the Treasury. That had any legal technicality been then found to impede a settlement of the subject, it might (at a trifling cost to the Queen) have been definitely set right by a short Act of Parliament (to which these two Cabinet Ministers could have been consenting parties), and thus the fees to law officers and other expenses in conducting a suit so costly to the Queen might have been avoided.

53. That to support the proceedings of the Chancellor of the duchy, by which your petitioner was prevented from exercising any check on the valuation of the property, it has been stated that his signature to the bill itself, and his second signature to the certificate at the foot of the bill, conveyed, in fact, to Her Majesty no other idea than that the bill had been prepared pursuant to a minute of the council of the duchy, and that in signing the bill itself, he did not do so as an advising member of the council. That this misstatement of your petitioner's functions was made by Earl Granville on 2d March 1855, by the Earl of Harrowby on 4th May 1855, and was persevered in and insisted upon by the clerk of the council calling on your petitioner on 18th May 1855 (by the orders of Lord Harrowby) for his signature to two bills authorising the sale of property of the duchy.

54. That a stratagem was thus adopted (under an allegation of a fact which had first been rendered inapplicable to the case) to make your petitioner give the semblance of check and authority to proceedings with which he had been purposely disconnected; for, although the auditor might originally have signed the bills for the sale of the duchy property, to certify that they had been prepared pursuant to an order of the court or council, yet he did so concurrently and consistently with the fact that he was then himself an acting member of that court or council; and, from the course which was then pursued in the preparation of such bills, he had not only had a pre-knowledge of all the facts, but actually admitted those facts before they were inserted into the bill for the consideration of the council. The mode of preparing bills was explained to your petitioner in the written statement of the clerk of the records, dated 31st January 1855; but, in your petitioner's case, from the auditor being precluded from any such means of checking the facts, his signature, to which he was required to attach the word "auditor," was rendered ambiguous and illusive.

55. That your petitioner feels convinced that Lord Harrowby's interpretation of the meaning which would be conveyed to Her Majesty by the signature of the auditor to the bills was irreconcilable with the wording of the bills themselves, because they were drawn up in such terms that, on receiving Her Majesty's signature, the fact became confirmed that the property was sold "by and with the advice and consent of the Chancellor and council" of the duchy, while no other council was recognised by law than that composed of its attorney-general, its receiver-general, its surveyor-general and auditor, who had always been one of the court.

56. That your petitioner therefore, fearing to deceive Her Majesty as to the object of his signature to the bills, signed them with the addition of an explanatory certificate to his name and title of his office, thus, "Francis R. Bertolacci, Auditor, to certify that the bill is in conformity with the order of the Chancellor of the Duchy of Lancaster," and then transmitted them to the clerk of the council on the 18th May 1855.

57. That after this precautionary measure on the part of your petitioner, it was decided by the Chancellor (the Earl of Harrowby) that in future the bills for the sale of the duchy property should be signed by the clerk of the council and not by the auditor, and that the auditor should sign only the certificate at the foot of the bill, stating that it was in conformity with an order of the court of the duchy, which fact was alluded to in your petitioner's letter of 28th May 1855, to Mr. Danvers, the clerk of the council, with reference to some land of the duchy which the Earl of Harrowby had agreed should be sold to the Duke of Newcastle, one of the council of the duchy.

58. That this latter resolution of the Earl of Harrowby was only another means of carrying out the pre-determined intention to exclude the auditor from exercising the functions of his office in checking the valuation of the property, whilst securing his certificate to the bills in order to give a legal existence to them; for, although the clerk of the council originally signed the bills, his warrant for signing them was a document called a "particular," which was first drawn up by the auditor on the surveyor's report and valuation of the property being submitted to him; and the signature of the clerk of the council to the bill was only to vouch for the agreement of the bill with the auditor's "particular." Now therefore that the clerk of the council signs the bills without the warrant of the "auditor's particular," his doing so is an eluding of the effect of the auditor's check and "particular," and a voucher to a fact which does not exist.

59. That

59. That your petitioner humbly submits to your Honourable House, that, in the following instances, several breaches have been made in this permanent trust for the sovereign, namely— Appendix, No. 15.

1st. By the surveyor's report and valuation not being submitted to the auditor.

2d. By the omission of the "auditor's particular" preparatory to the sale of the duchy property.

3d. By the clerk of the council being ordered to sign the bills for the sale of the duchy property without the "auditor's particular."

4th. By the course adopted to procure the auditor's corroboration to facts he was deprived of the means of testing, and to obtain his signature to the certificates to the bills as before stated.

5th. By the exclusion from the council of persons who, by their offices, were members of it.

6th. By the introduction into the council (by the duchy Chancellors) of parties holding no constitutional office in the duchy, either by letters patent, or as being recognised by Parliament as persons authorised to form the court of the duchy.

60. That your petitioner further humbly submits to your Honourable House that, by the several innovations and unconstitutional breaches above alluded to, an absolute power (greater than that which can be exercised by the Sovereign herself over the duchy property) has in reality and unconstitutionally been assumed by the Chancellor of the duchy.

61. That through some of the parties who have been lessees, and who have become purchasers of the hereditary property of the duchy, your petitioner (as auditor) has been placed in a very invidious position, requiring for the free and impartial discharge of his office that independence without which the existence of an auditor to the duchy is a mere illusion.

62. That in the month of September 1854, your petitioner (notwithstanding the impediments placed in the way of his effectually checking the accounts by being refused free access to the minutes of the Court) endeavoured to test the balance brought forward from the account of 29th September 1852, to the account commencing on 30th September 1852, and ending on 29th September 1853, which his predecessor had left unexamined on his resignation of office in the month of May 1854, and that on this occasion your petitioner called on the deputy of the receiver-general to show him the particular items of which such balance, amounting to 7,673 *l.* 6 *s.* 1 $\frac{3}{4}$ *d.*, was composed; but that, after trying for some time, he failed in producing to your petitioner a detailed statement to correspond with the amount of the balance in arrear.

63. That your petitioner asked the deputy of the receiver-general to state with what date the balance corresponded which was brought forward from the previous account to the account then under examination; to which he replied, "no date."

64. That your petitioner then discovered that there was no cash account nor journal of the actual receipts and payments between fixed dates, nor corresponding with any period of account; but that the account submitted to him was a statement compiled under different heads from various transactions not previously classified nor reduced into any form of account.

65. That it was not possible to use the banker's pass book as a test of the cash transactions, in consequence of the payments to the bankers not being the gross sums received by the accountant, but the balances of various minor accounts, some of which were current accounts, embracing transactions of different years, and not balanced up to dates corresponding with the account under examination, while the drafts on the banker were not in every instance in discharge of definite sums, but in some cases on imprest to be accounted for in the minor accounts herein alluded to.

66. That on the same occasion your petitioner asked the deputy of the receiver-general why the receiver-general's account for the year, from 30th September 1851, to 29th September 1852, had not been declared until the month of May 1854, and that his answer was, that the account had been kept open to give an opportunity to Earl Granville to pay the arrears of rent due by his Lordship to the duchy.

67. That as Earl Granville was Chancellor of the duchy at the time of this communication, your petitioner did not yield conviction to the correctness of the statement of his Lordship having been a defaulter in payment of rent to the duchy on the mere assertion of that fact, your petitioner's first impression being that, if any deficiency existed in the cash accounts of the deputy of the receiver, there might be an equal possibility of the name of a nobleman holding so high a position being used in this manner, to prevent inquiry.

68. That as your petitioner was refused free access to the minutes, by which he could of himself have ascertained the truth of the statement by the receiver-general's deputy, he applied to a party holding a very confidential position under the Government to know whether such a statement was at all likely to be true.

 69. That

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69. That the answer which your petitioner then got from the gentleman to whom he mentioned the circumstance, was, that he did not think it likely his Lordship would allow his rents to remain unpaid; and he adduced some reasons for thinking so.

70. That the fact above stated, together with the refusal by the clerk of the council, who had under his immediate control the clerk making this statement, to allow your petitioner free access to the minutes of the court, as well as a coincidence with such refusal, caused your petitioner to adhere to a determination to discover the real circumstances of the case, and not to relinquish any of the powers which constitutionally belonged to his office; and which could make it effective in detecting abuses or misrepresentations, and the information he obtained convinced him that he was, by virtue of his office, a member of the council of the duchy.

71. That your petitioner, having upon the best authority ascertained that a defalcation of a very considerable amount had recently been discovered in some public accounts (the origin of which was attributed to the facilities of concealment afforded by a similar system of rendering accounts to that adopted in the Duchy of Lancaster), your petitioner formed the resolution not to sign any accounts for your Honourable House, without making such an investigation into the large balances outstanding, and into the past transactions of the duchy, as would afford him a reasonable ground for believing that his signature to the accounts, embracing previous balances, would not cover any prior misapplication of the property and funds of the duchy.

72. That when your petitioner had (after the delays and impediments placed in his way) succeeded in partially removing the restrictions on his inquiries, he was able to ascertain that the statement which the deputy of the receiver had made to him, as to the cause of delay in passing the accounts of 1852, was not without foundation.

73. That as your petitioner was a senior clerk under the Board of Ordnance, when the auditorship of the Duchy of Lancaster was given to him to be held jointly with his Ordnance appointment, he was at the same time informed (between 1st and 8th May 1854) by Lord Belper (then the Right honourable Edward Strutt and Chancellor of the duchy), that he had had an interview with Mr. Monsell, M.P., the Clerk of the Ordnance, and that Mr. Monsell had stated, that on his application for your petitioner's services to audit the duchy accounts, he would grant your petitioner occasional leave of absence from the Ordnance Office for that purpose. That on 21st June 1854, your petitioner had a conversation with Mr. Henry Smith (afterwards Accountant-general of the War Department), who was then Mr. Monsell's chief clerk, and in this conversation (of which your petitioner made a memoraudum the next morning) Mr. Henry Smith admitted that he was cognisant of what had passed between Mr. Monsell and Lord Belper, then Mr. Strutt.

74. That after the Chancellor of the Exchequer made arrangements, in the month of March 1854, for the appointment of your petitioner to the office of auditor of the Duchy of Lancaster as a reward for public services in connexion with the Treasury; but before the 23d April 1854, when your petitioner was first made acquainted with the office he was to have, Sir Charles Trevelyan had interviews at the Treasury with the then Chancellor, the Right honourable Edward Strutt, and, from what subsequently transpired, your petitioner has reason to believe he very materially and unconstitutionally interfered, by inducing the Chancellor of the duchy to change that which had been settled by the Queen's sign manual, and in curtailing the powers of the office of auditor, after it had been decided that your petitioner should hold it.

75. That by the communications which were made to your petitioner on 31st March 1854, and 23d, 26th and 27th April 1854 (and which, if permitted, he will state to a Committee of your Honourable House), there could be no doubt at all of the fact, that the appointment, as auditor of the duchy, was given to him in consideration of his services.

76. That in consequence of the interference of Sir Charles Trevelyan above referred to, your petitioner, on the 4th November 1854, transmitted through Mr. Stephenson at the Treasury, a written statement to Sir Charles Trevelyan of the facts which rendered it necessary that your petitioner should be allowed time to attend to the duchy business, and by a personal communication to Earl Granville on 30th October, and again by letter to his Lordship on 1st December 1854, he urged the necessity of time being allowed him during official hours, to audit the accounts of the duchy left unexamined by the former auditor.

77. That on the 2d December 1854, it was stated in the "Civil Service Gazette," and transcribed into the "Times" of the same day, that the office of auditor of the Duchy of Lancaster was vacant by the death of Mr. J. G. Lockhart, although, on the 20th May previously, your petitioner's appointment to the office was gazetted by the former paper, and copied into the "Times" of the same date.

78. That Earl Granville, on the 4th December 1854, after having been in communication with Sir Charles Trevelyan and Lord Belper (then the Right honourable Edward Strutt) on the subject of your petitioner's application to himself and Sir Charles Trevelyan for time, wrote to your petitioner in terms which (although complimentary) conveyed a refusal to apply to the head of the Ordnance Office to allow your petitioner time to audit the accounts of the duchy during official hours, which, when your petitioner was appointed, Mr. Monsell had consented to grant, if an application were made to him by the Chancellor of the duchy.

That,

That, as Sir Charles Trevelyan made no difficulty in applying to the Master-general and Board of Ordnance to allow your petitioner to be absent during a period of six years, when his services were required at the Treasury for the management of a business and the recovery of large sums, for which his experience was necessary, your petitioner alleges that the excuse (that any application to the Ordnance would be useless) being made when your petitioner was directing his inquiries into the valuation by the surveyor of the duchy of the property which Earl Granville and the council had agreed to sell to an individual, and when his Lordship was refusing to allow your petitioner to take his seat at the council, and was also endeavouring to get your petitioner to resign the auditorship of the duchy, was, therefore, both disingenuous and specious. Appendix, No. 18

79. That on the 5th December 1854, a letter signed "J. C." was written to the "Times," which was inserted by that journal on 7th December, placing a false construction on your petitioner's appointment;—that on the 9th of the same month, a most scurrilous paragraph was inserted in the "Civil Service Gazette" against your petitioner, without the slightest provocation on his part, and totally without foundation for the untruths it contained, which were calculated to prejudice him in the eyes of the Court and the public, and this paragraph was on the same day reprinted by the "Times," which circumstance following immediately Earl Granville's interview with Sir Charles Trevelyan and Lord Belper, and his communication to your petitioner is the more remarkable, as on that day this journal omitted to insert your petitioner's contradiction of the misstatement. That the language of the paragraph against your petitioner was so coarsely abusive, as to lead your petitioner to infer at the time that a powerful agency must have operated to induce that journal to give it a place in its talented columns—an inference in which your petitioner was afterwards supported by strongly corroborative facts which came to his knowledge, for he ascertained that Earl Granville and Sir Charles Trevelyan, who had co-operated in withholding from him time to audit the accounts, were both personally acquainted with the parties concerned with these journals, and that Sir Charles Trevelyan had actually patronised the "Civil Service Gazette."

80. That, in consequence of Earl Granville's letter to your petitioner, dated 4th December 1854, your petitioner addressed his Lordship on the 11th of the same month, disclaiming the responsibility of the consequences which might arise from his not having time allowed him to make that perfect examination of the accounts of the duchy, which your petitioner considered should be effected; but his Lordship would not receive the disclaimer, lest it should fix responsibility on himself, and he therefore required your petitioner to withdraw his letter, and thus continued, under the circumstances before stated, to make your petitioner responsible for the examination of the accounts.

81. That by a letter your petitioner wrote to the clerk of the council on 21st December 1854, to be shown to Earl Granville, your petitioner called his Lordship's attention to the fact, that the receiver-general had not rendered his account for the period from 30th September 1853, to 29th September 1854.

82. That the following day (the 22d December 1854) Earl Granville wrote to your petitioner, acknowledging to have seen his letter of the previous day to the clerk of the council, but his Lordship was silent respecting the accounts which had not been rendered, while he requested your petitioner to prepare the draft instructions which were to be for the auditor's guidance in the discharge of his duties, that his Lordship might then curtail the same or add thereto.

83. That although Earl Granville, Sir Charles Trevelyan and Mr. Monsell had settled that the time which, on your petitioner's acceptance of the office of auditor, had been privately promised to him to audit the accounts, should nevertheless be withheld from him, yet his Lordship, in his communication of the 22d December 1854, would have drawn from your petitioner an admission, either that he could discharge the duties of auditor of the duchy, notwithstanding the refusal by the head of the Ordnance to allow him time for the purpose, or that he could not perform them jointly with his Ordnance appointment.

84. That by this means a strong temptation was held out to your petitioner, either to stultify his office, by circumscribing its duties within the sphere of a sinecure, or to receive the salary of the office without the performance of its acknowledged functions in the interests of the Sovereign, the only other alternative being to yield to the dilemma into which he had studiously been placed, and to state that the retention of the auditorship of the duchy was incompatible with the duties of the Ordnance Office, and thus furnish a pretext for depriving your petitioner of the reward for public services, and for substituting in his place some other party.

85. That as your petitioner had discovered, after his appointment, that the constitutional rights and privileges of the office of auditor of the duchy had been already illegally interfered with by the Chancellors, in matters which had come under your petitioner's notice, to the prejudice of the functions of check by which the interests of the Sovereign should be protected, and as your petitioner did not then know what additional powers and duties might not, upon further inquiry, be ascertained to appertain to an office of such antiquity in a county palatine of which the property, as well as the other estates of the duchy, formed a perpetual trust for the Sovereign, he declined, by letter to Earl Granville, dated 27th December 1854, either to prescribe or circumscribe the limit of his own functions as such auditor.

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86. That had your petitioner consented to draw up the drafts of instructions for changing or abrogating the powers of the auditor, and to submit them for Earl Granville's revision, it would have been an assent to the exercise, by the Chancellor of the duchy, of legislative power which belongs to Parliament alone. Your petitioner, therefore, consented only to fulfil, to the best of his ability and power, the directions which might be given him by the Chancellor, without pledging himself to limit his functions.

87. That on the 18th January 1855 Earl Granville transmitted, in a letter to your petitioner, the draft of a set of instructions which his Lordship said had been prepared with the assistance of the Audit Office, and he requested your petitioner to make his observations on such draft. That in the same communication his Lordship, without, however, having made any provision in the draft of instructions for your petitioner being allowed time to audit the accounts, urged him to state whether he could, concurrently with the duties of the Ordnance Office, perform those of auditor of the duchy.

88. That this question by Earl Granville was, however, in reality another attempt to make your petitioner by himself vacate the office of auditor; for while his Lordship knew that the salary of your petitioner's Ordnance appointment was considerably more than that which he received from the duchy, his Lordship proceeded to say, " Since the conversation which I believe I informed you I had with Mr. Monsell, I have received a letter from that gentleman, in which he informs me, in terms complimentary to you, that in the opinion of the chief clerk of the Ordnance and himself, it would be far better that you should belong to one of the two offices to which you are attached, giving up the other."

89. That, in a letter which your petitioner addressed to Earl Granville on the 2d February 1855, he returned the draft of the proposed instructions, with remarks against each clause respectively, in which your petitioner showed the defective system of the accounts, and how futile the efforts of the auditor would be if he were fettered by the restrictions proposed by his Lordship.

90. That on the 22d January 1855 your petitioner transmitted to Earl Granville, in his letter of that date, the copies of four letters which he had written to Mr. Danvers, the clerk of the council, since 21st December 1854, calling for a simple debtor and creditor account of the cash received and paid between 30th September 1853 and 29th September 1854; an he also enclosed copies of five replies from that gentleman, without such account being rendered.

91. That one of the enclosures above alluded to, which was transmitted to his Lordship, was the copy of a letter, on the 23d December 1854, from the clerk of the council to your petitioner, transmitting a paper from the clerk under him (who was acting as deputy to the receiver-general), containing evasive pretexts for not rendering the cash account required by your petitioner as auditor; that, however, Earl Granville remained silent on the subject of the accounts.

92. That the cash statement alluded to, although asked for on 21st December 1854, was not furnished until 24th January 1855.

93. That your petitioner, on the 6th February 1855, received a letter from the clerk of the council, by which it was evident that the deputy to the receiver-general would not render the account for the year ending 29th September 1854, unless your petitioner returned to him the account for the prior year, which, for reasons of check, your petitioner wished to retain in his possession.

94. That it is totally at variance with the rules of audit for an auditor to part with accounts once rendered to him; and that therefore, and because your petitioner wished to prevent the possibility of the adaptation of accounts of different periods to each other, to fit the cash at the bankers, he maintained his resolution of not parting with the account for the prior period.

95. That your petitioner having failed to obtain the receiver-general's account for the year from 30th September 1853 to 29th September 1854, after having made repeated applications for it to the clerk of the council, and through him to his subordinate clerk, who acted as deputy to the receiver-general, applied by letter, dated 6th February 1855, to General Fox, the receiver-general, himself, requesting him to take such steps as might be necessary to cause the production of it to your petitioner. In the same communication to General Fox, your petitioner acquainted him with the receipt of a letter from the Treasury, saying that the account must be presented to Parliament by the 23d of that month, February 1855.

96. That General Fox, in a letter of the 9th February 1855, replying to your petitioner in very uncourteous language, desired him, in an authoritative manner (although the auditor of his accounts), to give up to the clerk of the council the previous year's account, which your petitioner had stated he wished to keep in his possession, for reasons of check, until the subsequent account had been rendered to him.

97. That General Fox attempted to raise further impediments in the way of the examination of the accounts, whilst at the same time he tried to throw on your petitioner the onus of the delay which he was himself causing.

98. That

98. That General Fox, knowing your petitioner was engaged during the hours from 10 to 4 at the Ordnance Office, held out a threat to him that he would use his influence with the Chancellor to get him displaced if he did not attend during those hours at the duchy office.

99. That General Fox, from his being a member of the council of the duchy, where the subject of your petitioner's appointment and communications with Earl Granville had been discussed, must have known, at the time he wrote to your petitioner, that Earl Granville, the Chancellor of the duchy, Sir Charles Trevelyan, the Secretary to the Treasury, and Mr. Monsell, the head of the Ordnance Department, had united in refusing your petitioner any time during official hours to audit the Duchy of Lancaster accounts.

100. That, by a letter from your petitioner to General Fox, dated 10th February 1855, and written in courteous language, your petitioner again called his attention to the wish which he had formerly expressed of retaining the cash account and manuscript account for the prior year until the account of the subsequent year should have been rendered to him, and he requested to know whether, after the further explanation, he (General Fox) still desired your petitioner to relinquish those accounts before he would allow the account for Parliament to be produced for audit.

101. That, in reply, General Fox, on 14th February 1855, wrote to your petitioner in language not only uncourteous, but most offensive and overbearing, omitting to your petitioner's name the terms of civility commonly used, but adding to his own signature his military rank of "lieutenant-general." That in the same letter he maintained his resolution of not rendering to your petitioner his account of receipts and disbursements for the year which had ended on 29th September 1854, unless the prior account should first be given up to him, and he concluded by desiring that your petitioner should address no further correspondence to him, except through the clerk of the council.

102. That on 16th February 1855, your petitioner received a letter, written in a peremptory manner by the clerk of the council, stating that, as the draft of the account for 1853 had not been returned to the duchy office, according to General Fox's desire, he had "received his instructions to request that it might be immediately transmitted under cover" to himself, Mr. Frederick Dawes Danvers.

103. That, as your petitioner held his office as one of an independent nature by letters patent from the Sovereign, that as his office was one of record, and as accounts once deposited with an auditor should not be withdrawn from him at the pleasure of the party rendering them; and as he also considered it most essential, for reasons of check, that he should retain the prior account until the subsequent one had been rendered to him, he did not relinquish the account, but referred the clerk of the council to his previous correspondence to explain why he still retained it.

104. That, on 22d February 1855, your petitioner learnt in conversation with a gentleman to whom General Fox had spoken on the subject, that the General had applied terms of contempt and opprobrium in speaking of your petitioner, which made it evident that he considered himself in too exalted a position for his accounts to be called into question by an auditor; and your petitioner made a memorandum at the time of the expressions alluded to.

105. That, by Her Majesty's letters patent, granting to your petitioner the office of auditor of the duchy and of the County Palatine of Lancaster, "all sheriffs, barons, mayors, justices, constables, bailiffs, receivers, farmers, prepositors and ministers whomsoever," were commanded to be "in all things attending, observing, aiding, and advising, on, and to, your petitioner, or his deputy or deputies.

106. That your petitioner finding his office treated as a nullity and with contempt, and himself set at defiance by the very parties accountable to him while in the discharge of his duties to the Sovereign, wrote to Mr. Thomas Flower Ellis, the attorney-general of the duchy (the legal adviser of its officers), on 15th, 19th, and 21st February 1855, transmitting in his first letter an extract from Her Majesty's letters patent specially commanding the rendering of accounts to your petitioner, and he requested to be informed what powers were thereby conferred on him to discharge the duties of auditor? What course he should pursue in the event of the accountants either neglecting or refusing to render accounts? And who were the parties responsible, under the Act of 1 & 2 Vict. c. 101, for the transmission of the accounts to the Lords Commissioners of Her Majesty's Treasury to be laid before Parliament?

107. That, in the same letter your petitioner stated to the attorney-general of the duchy, that his object in troubling him for information on these points was to act in every respect in accordance with that which might be legal within the jurisdiction of the duchy.

108. That the Attorney-general of the duchy, by his replies on the 19th and 21st February, evaded your petitioner's questions, and referred him to the council of the duchy, of which he himself, and General Fox, the receiver-general, were members; but, at the same time, he intimated to your petitioner that he would not be at the council, as he was about to leave town.

109. That, on 8th July 1854, the clerk of the council wrote to your petitioner, saying, "I beg to acquaint you that it is the duty of the auditor and the clerk of the council to

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examine annually (about this time of the year) into the sufficiency of the security bonds entered into by or on behalf of the officers of the duchy. When convenient to you to make an appointment for this examination I will have the bonds out in readiness." That Earl Granville, in a letter of 2d March 1855, transmitted to your petitioner the instructions which he had finally decided should regulate the auditor's functions. That by these instructions your petitioner was debarred from exercising the powers which had been admitted by his Lordship to belong to the auditor, viz., those of ascertaining " that the amount of balance in the hands of the receiver-general is not larger than appears necessary for his immediate requirements; that the amount not immediately required is placed out to the best advantage; and that proper security is given by the receiver-general;" as thus recapitulated in the original draft of the instructions (agreeably with the letter of 8th July 1854, from the clerk of the council), but subsequently altered by Earl Granville in those instructions to agree with the subordinate and ineffective position in which his Lordship designed to place the auditor.

110. That, in the same letter, Earl Granville admitted the instructions to have been prepared in the office of the duchy, of which the officials were the parties whose accounts the auditor had to check. That his Lordship said, " I do not think it necessary to discuss all the points raised by you," and thus avoided noticing the remarks which your petitioner had made on the draft of such instructions, showing that if they were imposed on him his efforts as auditor would be paralysed.

111. That, although Earl Granville was a cabinet minister, and Mr. Monsell, the head of the Ordnance, was subordinate to his Lordship in the Government, yet Earl Granville, in his his letter, proceeded to say to your petitioner, " I have now to request you to inform me whether you are of opinion that you can comply with these instructions in their present form, notwithstanding the refusal of the Ordnance Office to give you leave of absence for this purpose, and, if so, what time of the day you propose to give to the duties of your office here,"—the duchy.*

112. That, in your petitioner's reply to Earl Granville on the 6th of the same month (March), he pointed out that the effect of the instructions would be to prevent his making any retrospective inquiry into the transactions of the duchy, by which the balances to be brought forward in the accounts would be affected.

113. That, further, in reply to Earl Granville's question as to the time of day your petitioner intended to devote to the duchy business, he informed his Lordship of his intention, under the circumstances, to work at it from six to eight or nine o'clock at night; but he remonstrated against a proceeding by which he was thus compelled to apply to such a purpose the hours of rest, after being employed in the laborious duties of the War Department from 10 o'clock in the morning; and also against the unfair advantage taken of the letter he had written, under Sir Charles Trevelyan's directions, stating he would not absent himself from the Ordnance to attend to the duchy business without Mr. Monsell's leave, upon the promise that that leave would be granted to him for that purpose.

114. That, in the same letter, your petitioner again stated to his Lordship that the receiver-general's account to 29th September 1854 had not, up to that time (the 6th March 1855), been rendered to him.

115. That your petitioner, in a letter to Earl Granville, dated 16th March, again called his Lordship's attention to the omission on the part of the receiver-general to render his account to your petitioner; but he received no reply from his Lordship on this subject.

116. That your petitioner having failed to obtain any attention from Earl Granville to the appeals he made to his Lordship, when he was Chancellor of the duchy, respecting the omission on the part of the receiver-general to render his account, and being informed, in a letter of 31st March 1855, by the clerk of the council, that the Earl of Harrowby had been appointed Chancellor of the duchy, your petitioner addressed a letter to the Earl of Harrowby, on 18th April 1855, in very respectful terms, calling his Lordship's attention to the following facts:—

1st. That the accounts of the duchy for the year ending on 29th September 1853, had been presented to Parliament before your petitioner's appointment, without the receiver-general's account (from which they had been made up) having been audited by your petitioner's predecessor.

2d. That the accounts of the duchy for the subsequent year, which had ended on 29th September 1854, had not been presented to Parliament, as they should have been, by the 23d February 1855.

3d. That the account from which they should have been made out had not been rendered by the receiver-general to your petitioner to be audited. And your petitioner, in the same letter to the Earl of Harrowby, stated, that for the reasons assigned

* When the Treasury found Mr. F. R. Bertolacci useful in recovering sums in Ireland which had been looked upon as almost hopelessly lost, there was no difficulty experienced at withdrawing him from the Ordnance Office from the year 1847 to 1854. The difficulty here created arose only when Mr. Bertolacci had to investigate the duchy accounts, and when his appointment was to be given to a gentleman in another office, who was a connexion of the receiver-general, whose accounts Mr. F. R. Bertolacci then had under examination.

assigned in his letter to Earl Granville on 22d January 1855, and explained in the paper which he had enclosed to that nobleman on 2d February 1855, he "wished to conduct the audit relating to the period for which the accounts of the duchy were last presented to Parliament simultaneously with the examination of the accounts for the year ending 29th September 1854, and to look to the prior accounts to test the balance brought forward from the account of 1852, which, although audited and declared, appeared to be incorrect by a statement in the subsequent year's accounts."

117. That on the 4th May 1855, the Earl of Harrowby (without any prior communication with your petitioner, or affording him an opportunity of explanation) sent an official reply to him in the handwriting of the copying clerk of the duchy, in which letter his Lordship said he had read the correspondence between your petitioner and the late Chancellor of the duchy and receiver-general of the duchy, and he concluded by saying, "I have come to the determination to appoint an auditor in your place, and I have to request that all the papers, books, and documents appertaining to the duchy, which remain in your possession, may be immediately returned to this office."

118. That the grounds on which the Earl of Harrowby alleged his determination to have been based were, that your petitioner had prevented the receiver-general from rendering the account for the period from 30th September 1853 to 29th September 1854, by retaining, "for reasons of check," the prior account up to 29th September 1853.

119. That on this point your petitioner has positive proof in his possession, which he is prepared to produce to your Honourable House, that so far from Lord Harrowby's allegation being true, the receiver-general's account for the year which had ended on the 29th September 1854, had absolutely been closed on the 22d February 1855, being upwards of two months prior to the date of his Lordship's letter, and while Earl Granville was Chancellor.

120. That the real cause why the account up to the 29th September 1854 was not produced to your petitioner was (as he subsequently discovered on the 16th May 1855), an order given to the clerks of the duchy, by Earl Granville, when Chancellor, and when he was in arrear of rent to the duchy, not to furnish the account to your petitioner, notwithstanding the repeated appeals to his Lordship on the subject of its not having been produced for audit.

121. That another reason, among those assigned by the Earl of Harrowby, in his letter on 4th May 1855, for wishing to displace your petitioner from the office of auditor of the duchy, was that your petitioner had, by his reports of 4th August 1854 and 10th March 1855, to Earl Granville, maintained (as his Lordship alleged) an incorrect and contrary opinion to that of the Chancellor and law officers of the duchy, with respect to the constitution of its council, and the auditor's right to a seat at that council. That this allegation by the Earl of Harrowby was made in consequence of your petitioner having, as before shown to your Honourable House, referred in his reports to the charters of the duchy and to Coke's Institutes, in evidence that the exclusion from the council of the surveyor-general and auditor (both officers by patent from the Sovereign), and the substitution of a council appointed by the Chancellor of the duchy (not being officers by patent or otherwise), was a breach of a great constitutional trust reposed, for the benefit of the Sovereign for the time being, in recognised officers having distinct functions and mutual checks; and your petitioner having also shown that such innovations excluded the auditor from that position which gave him a real power of check over the duchy property, and converted him, from an independent judge, into a mere blind agent of the Chancellor of the duchy.

122. That although, it would appear, the Earl of Harrowby at the time believed the opinion of your petitioner (as founded on the above authorities) to be correct, yet his Lordship alleged it to be wrong, with a view to support the predetermined measure of excluding the officers from the council who legally composed it, and of substituting other parties not holding any office of trust or responsibility in the duchy.

123. That your petitioner establishes his allegation by the following facts; viz. that after he had, on the 4th August 1854 and 10th March 1855, shown that the council, as then constituted, of parties holding no office in the duchy, had not been recognised by any Act of the Legislature, but, on the contrary, that several Acts of Parliament had been passed relating to the council before any other parties than the officers of the duchy had been introduced into it, the Earl of Harrowby, on the 4th May 1855, professed to treat the then existing council as one lawfully constituted; that his Lordship, on 24th May 1855, stated that the questions which your petitioner had put to him involving the same subject, would be answered in the course of two or three days; that the clerk of the council, on the 6th June 1855, maintained by authority of the council, at which the Earl of Harrowby had presided, the same view; and that this view was acted upon, whilst on 12th June 1855 his Lordship introduced a Bill into the House of Lords (which his Lordship must some days before have ordered to be prepared), the real purport of which was (under covert of the alleged object of obtaining powers for the Chancellor and council for the time being to buy and sell land for the duchy) to get the illegally constituted council of the duchy recognised in some Act of the Legislature.

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124. That these alleged powers to buy and sell land, &c. on behalf of the duchy, had been granted by previous Acts, under the provisions of which the Chancellor and council had been in the habit of continually acting, so that the only additional effect of the measure alluded to was to afford ground for an allegation that the council, as then constituted of parties appointed by the Chancellors, and after the exclusion from it of the surveyor-general and auditor, had had its powers acknowledged by Parliament.

125. That all the stages of this Bill (which became an Act of 18 & 19 Vict. c. 58) were hurried through your Honourable House in eight days; namely, first reading on 25th June; second reading on 28th June; report, 29th June; and third reading on 4th July. Thus not affording sufficient time to ascertain the real effect of the measure, with reference to the constitution of the duchy, and the deprivation of the auditor's functions of check over the property. That, if permitted by your Honourable House, your petitioner can prove all these facts and allegations by documents in his possession, too voluminous to be inserted in a petition.

126. That by your petitioner's reply of the 9th May 1855, to the Earl of Harrowby's letter of the 4th of that month, he resisted the attempt of his Lordship to displace him, by reminding his Lordship that your petitioner held his office of auditor by letters patent from the Crown; that he had not been guilty, nor had he ever been charged with having been guilty, of any offence or misconduct in his office, and that therefore the legal rights and privileges conferred on him by appointment under Her Majesty's letters patent, had not been abrogated.

127. That your petitioner never vacated his appointment, but continued to hold it, as appears by the fact, that the clerk of the council, on 18th May 1855, transmitted to your petitioner, by desire of the Chancellor of the duchy, a bill for his signature as auditor, to sanction the sale of some duchy property, the particulars of which were alluded to in your petitioner's reply of the same day to the clerk of the council.

128. That your petitioner having, by Lord Harrowby's desire, met his Lordship at the duchy office on the 16th May 1855, for the purpose of discussing subjects connected with the accounts, his Lordship directed him to commit to paper the various questions then brought under his notice, so that he might record categorical answers against each.

129. That your petitioner accordingly prepared a statement of the circumstances thus brought under discussion, and of the questions which had arisen out of such discussion, in the conversation with Lord Harrowby relating to the mode in which his Lordship wished that the auditor should discharge his duties; which document your petitioner transmitted to his Lordship in a letter dated 19th May 1855.

130. That in this letter your petitioner took the opportunity of requesting his Lordship, in writing, to give an order "that the accounts for the year 1854 should no longer be withheld" from him, as he had in vain urged that request verbally at the interview he had had with his Lordship.

131. That the accounts referred to were those of the receiver-general, which Lord Granville had secretly caused to be withheld from your petitioner, while the receiver-general pleaded his inability to make them out, in consequence of not having the draft of the prior year's accounts in his possession.

132. That in answer to your petitioner's letter of the 19th May 1855, the Earl of Harrowby replied by letter, on 24th of that month, consenting to the accounts being produced to your petitioner, and stating that in two or three days answers would be given to his questions.

133. That in the statement above referred to, your petitioner pointed out the looseness of the system upon which the business of the Duchy of Lancaster had heretofore been conducted, as well as the mode in which the accounts had been kept; and he brought to a definite point the several subjects then alluded to, in order that a concise and unambiguous expression might be made by Lord Harrowby of his opinion on each respectively; but, although his Lordship had desired your petitioner to state the questions consecutively and in a categorical manner, on half margin, in order that his Lordship might consider them separately, and record an order against each distinctively, yet the answers which were communicated by a letter from the clerk of the council on 6th June 1855, in the name of the council, were not in the intelligible form in which his Lordship had agreed to their being made.

134. That (except in those cases where the answer tended to restrain the auditor's powers of check) they were indefinite and evasive, and appeared to have been drawn up by a person attempting to avoid responsibility, rather than by a high public functionary, such as the Chancellor of the duchy, desirous of giving clear answers and explicit instructions; all which your petitioner, if permitted, will submit to your Honourable House, with notes against the questions and answers respectively, showing the prevarications resorted to.

135. That your petitioner, by his remarks on the incidental accounts of the clerk of the council, dated 30th May 1854 and 16th March 1855; by his letter to Earl Granville, dated 23d March 1855: and also by his statement of 19th May 1855, to the Earl of Harrowby,

Harrowby, urged the impropriety of the accountants of the Duchy of Lancaster not having produced the attesting signature of a witness to the payments they had made, in the same manner as public accountants, even of the highest grade in the service (namely, commissaries-general ranking with brigadiers-general), were required to do under Treasury Regulations.

136. That moreover, your petitioner pointed out that he did not, and could not, know the handwriting of the parties to whom the payments were made, and that (without the signature of a witness) the peculiar circumstances of the case affecting the mode in which payments and receipts on account of the duchy were made, afforded no security against the possibility of receipts being produced to the auditor which might not be genuine.

137. That notwithstanding the protests of your petitioner, as auditor, against these irregularities in the mode of accounting to him, Lord Harrowby (by his own letter of the 14th May 1855, and by that of the clerk of the council, dated 9th June 1855) communicated his determination to your petitioner, that the evidence he required of the payments of the money should not be afforded to him.

138. That the letters patent appointing your petitioner auditor of the Duchy of Lancaster, "give and grant to him, his deputy or deputies, full power and authority, all and singular the accounts to audit, hear, and determine," and command "all and singular sheriffs, barons, mayors, justices, constables, bailiffs, receivers, farmers, prepositors, and ministers whomsoever," to be "in all things attending, observing, aiding, and advising," your petitioner.

139. That Messrs. Coutts are the bankers, with whom General Fox, the receiver-general, deposits the funds of the duchy, for which he is responsible; but they are also direct receivers of portions of the sums payable to the duchy, which are carried to its account; and in consequence of contradictory circumstances, on 18th July 1854, your petitioner on the same day called upon Messrs. Coutts to ascertain that a certain payment had been made for the purchase of some duchy property, for the disposal of which he had been required to sign a bill.

140. That your petitioner was refused any information, unless he brought an order from the party in whose name the account was kept; namely, from General Fox, the receiver-general.

141. That thus the functions and powers of the auditor, under the authority of the letters patent from the Sovereign, were made subservient to the pleasure of the receiver-general, who by such letters patent, and by the Acts of Parliament,* was accountable to the auditor.

142. That subsequently, among the questions which accompanied your petitioner's letter of 19th May 1855, to the Earl of Harrowby, was the question whether, as auditor, he was not at liberty to require information from the bankers respecting the dates and channels of payments to them on account of the duchy, including those made to them by the deputy of the receiver-general; and your petitioner stated to his Lordship that the object of such inquiry would be to check the amounts which might be in the hands of the receiver-general, or of his deputy.

143. That the reply given to your petitioner on 6th June 1855, was, "that it was inexpedient and unnecessary, as well as unusual, that the auditor should put himself in correspondence with the bankers in the way named."

144. That your petitioner was therefore compelled, by the decision of the Earl of Harrowby, to accept the banker's pass-book as it might be produced by the accountants, without questioning the correctness of the entries therein, although such entries were made in handwritings of the clerks at the bank, with which the auditor was not, and could not be acquainted.

145. That your petitioner did not, and does not, consider that the auditor of the duchy should be satisfied with the assumed correctness of such evidence; and his reasons for saying so are, first, the facts which occurred on the 18th July 1854, relating to the deposit of money of the duchy at Messrs. Coutts' bank, for property which had been sold; secondly, the fact that another gentleman and your petitioner, who made weekly audits of the accounts of an institution, were deceived by the adroitness with which the cashier of the institution forged an entry in a banker's pass-book, and thus evaded the detection of the fraud until it was too late to prevent his departure to America with the cash which should have been deposited at the bank; thirdly, because by your petitioner being prevented from communicating with the bankers, he would be divested of any means, either of preventing or of subsequently detecting a fraud which at any time might be practised on him by the production of a spurious banker's pass-book; and fourthly, because the discharge by an auditor of an accountant's liability being final, the auditor's powers to investigate should be unlimited, and uncontrolled by any other functionary.

146. That

* Two Acts. 1 Henry IV. (14 October 1399). 2 Henry V. (19 November 1414). 1 Edward IV. (14 November 1461).

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146. That your petitioner is not aware of the reasons which the Earl of Harrowby and the council had for stating that it was "inexpedient" for the auditor to communicate with the bankers of the duchy in the way named; but your petitioner, for the reasons he has stated, most respectfully submits that it is inexpedient to the safety of Her Majesty's interests, that such unaccountable obstructions and restrictions should be placed on the inquiries by the auditor, in the exercise of the very functions of check for which all auditors are appointed.

147. That, your petitioner having been compelled, by Lord Harrowby's letter of 4th May 1855, to return to the office of the duchy the copy of the cash account, which (after meeting with much difficulty and opposition), he had obtained from the clerk of the duchy, who acted as deputy of General Fox, the receiver-general; and your petitioner having, in June 1855, succeeded in obtaining the receiver-general's account to 29th September 1854, he asked the clerk to return him the copy of such cash account, in order that the account of the receiver-general might be checked by it; but the clerk, acting as deputy receiver, alleged that Lord Harrowby had it, and that it could not be found.

148. That the cash account was not returned to your petitioner until 9th July 1855, and that the facts above alluded to were respectively the subjects of your petitioner's letters to the Earl of Harrowby, dated 11th and 18th June 1855, applying to his Lordship for the cash account, and his Lordship's reply of 18th June 1855.

149. That, on 15th June 1855, Mr. Stronge, the Parliamentary Paper Clerk at the Treasury, wrote a letter marked "immediate," which was brought to your petitioner by express messenger, the following being a true copy of it, viz.:—

"My dear Sir, "Treasury, 15 June 1855.

"A question is going to be put to the Government to-night in regard to the Duchy of Lancaster accounts, and Mr. Wilson has desired me to write to you, and ask when they will be ready to be laid on the table of the House.

"The question to be put is, whether it be true that the auditor of the accounts of the Duchy of Lancaster, appointed by the Right honourable Member for Nottingham, when Chancellor, has been dismissed, and why the accounts of the receipts and disbursements of the duchy have not been laid on the table of the House?

"Mr. Wilson is aware that you have not been dismissed.

"Yours, faithfully,

"F. R. Bertolacci, Esq." "*Charles W. Stronge.*"

150. That to the foregoing your petitioner returned by the bearer a reply as follows, viz.:—

"My dear Sir, "Ordnance Department, Pall Mall, 15 June 1855.

"In reply to your note of to-day, I have to say, that I am daily engaged after the hour of four o'clock in the auditing of the accounts of the Duchy of Lancaster; that those accounts require to be investigated with great care; and that as the nature of those accounts entail a much greater expenditure of time and labour than would be supposed from the extent of them, as shown in the returns to Parliament, it is quite impossible for me to state by what day they may be completed.

"Yours, faithfully,

"C. W. Stronge, Esq., &c. &c. &c., Treasury." "*Francis R. Bertolacci.*"

151. That Mr. Monsell, the head of the Ordnance Department, having, in concert with Earl Granville (the Chancellor of the duchy) and Sir Charles Trevelyan (the Secretary o the Treasury), refused to let your petitioner have the time which, when your petitioner was appointed auditor of the Duchy of Lancaster, he had promised should be allowed to him out of the time he was required to attend at the Ordnance Office, that he might devote such time to audit the accounts of the duchy (as before stated in this petition), your petitioner sought to obtain the usual leave of absence granted to gentlemen of the Ordnance Department for recreation and relaxation from work during the year, in order that he might apply it to the audit of the duchy accounts; and your petitioner wrote the undermentioned letter to Mr. Monsell, which he enclosed in due form in another to Mr. Henry Smith, who was then Mr. Monsell's chief clerk, viz.:—

"Sir, "Ordnance Department, Pall Mall, 15 June 1855.

"I beg leave respectfully to solicit such leave of absence as you feel disposed to grant to the gentlemen of this department, as I am desirous to apply any indulgence of the kind which may be accorded, without detriment to the public service, to the auditing of the accounts of the Duchy of Lancaster.

"I have the honour to be,

"Sir,

"William Monsell, Esq., M. P., &c. &c. &c." "Your most obedient, humble Servant,

"*Francis R. Bertolacci.*"

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"My dear Sir, "Ordnance Department, Pall Mall, 15 June 1855.

"I believe it is proper that applications of the nature of the enclosed should be transmitted through you to Mr. Monsell, and I hope, therefore, it will meet with your approval and support.

"I am, dear Sir,

"Henry Smith, Esq., "Yours, very faithfully,
&c. &c. &c." "*Francis R. Bertolacci.*"

152. That a reluctance existed, and a delay was caused in granting your petitioner even the leave of absence which was allowed other gentlemen of the department on ordinary grounds, and which he had stated to Mr. Monsell he wished to devote to the duchy accounts; for on his making the above application, it was reduced by Mr. Monsell from the six weeks he had promised the gentlemen of the department to 18 working days.

153. That 12 days, during which your petitioner had been absent during the previous 12 months (including three devoted to collecting information for a Committee of your Honourable House on business of the Treasury) were deducted even from this short allowance of time, and that by this means your petitioner's leave for relaxation from work, or to audit the Duchy of Lancaster accounts, was curtailed to six days.

154. That your petitioner can, if permitted, produce to your Honourable House, in proof of the facts above alluded to, memoranda made on 18th and 19th and 29th June 1855, and a letter written to him on 21st June 1855, by the head of the branch of the Ordnance Department to which your petitioner was then attached, communicating Mr. Monsell's decision on your petitioner's application for leave of absence.

155. That, while the above-mentioned delay was taking place in granting your petitioner leave of absence from his attendance at the Ordnance Office (even on the ordinary grounds on which other gentlemen of the department could absent themselves), Mr. Gooch, General Fox's deputy receiver (and who, in consequence of the defective form in which the accounts were submitted to your petitioner, was obliged to be in attendance on him when auditing those accounts in the evenings), informed your petitioner, on Saturday the 16th June 1855, that he would be absent for a fortnight from the 19th of that month, to collect the rents in the country which had been due on the 25th March preceding.

156. That your petitioner therefore wrote a letter, on the morning of 18th June 1855, to the deputy of the receiver-general, making arrangements to prevent, as far as possible, the extra delay which would be caused in the examination of the accounts by his absence.

157. That for this purpose he requested him, first, to place together all the account-books, accounts, vouchers, and minutes connected with the accounts of the years which had ended 29th September 1853, and 29th September 1854; second, to quote on each subsidiary account the minute of the court by which it had been allowed, and against the items of receipt or disbursement the minute of the court or order of the Chancellor by which the item of receipt had been admitted or the amount of disbursement allowed.

158. That although your petitioner, in the letter above referred to, told General Fox's deputy receiver that he required such information to enable him to continue the auditing of the accounts while he (the deputy receiver) would be absent from London, yet, on your petitioner going to the duchy office in the evening of the same day, he found that his requests had not been complied with, neither was the information subsequently furnished on the Monday, when the deputy of the receiver left town.

159. That, in consequence of the systematic opposition offered to your petitioner by the evasive, ambiguous, prevaricating, and sometimes totally incorrect answers made to his questions by this party, and by the impediments placed in your petitioner's way in higher official quarters, as before shown, he saw that in the ordinary course there would not be time to pass the accounts before the rising of Parliament, unless he audited them in a very superficial manner, and so established only an uncertain basis for future audits, which, while it might cover serious irregularities, would, by the discharge to the accountants, debar your petitioner in future from making retrospective inquiry.

160. That your petitioner therefore decided on availing himself of the only means left of auditing the accounts, namely, by exercising the privileges and powers granted to him by Her Majesty's letters patent of acting, either by himself or by deputy or deputies; and your petitioner wrote to Mr. John Abel Smith, M. P., asking him to recommend him a fit and proper professional accountant; and the following is a copy of that gentleman's reply, viz.:

"My dear Bertolacci, "13 June 1855.

"I am living out of town, and shall be so at present.

"I have heard that Mr. Coleman is the first accountant in London. He has been called in to audit the accounts of the North Western Railway, and is accustomed to responsibility and to large amounts.

"Yours most sincerely,
"*J. A. Smith.*"

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161. That, on 14th June 1855, your petitioner wrote to Mr. Coleman to make an appointment to meet him, and received a reply by that night's post; and your petitioner, having written to Mr. Coleman on the 16th, fixing a time to meet him, Mr. Coleman called the same day on him at the Ordnance Office.

162. That your petitioner having had an interview with Mr. Coleman on the 16th June 1855, and, in the conversation which took place, having ascertained that he had been the accountant called in to settle some deficient accounts of the Great Exhibition, in 1851, of which His Royal Highness Prince Albert was the active patron, and also that he had been employed by the Lords Commissioners of the Treasury to investigate serious irregularities in matters of account at the Queen's Palace, which your petitioner had been informed existed for a series of years, your petitioner considered that Mr. Coleman was trustworthy, and in every respect a fit and proper person to depute to audit the Duchy of Lancaster accounts with himself.

163. That, as your petitioner had succeeded in removing the objections which had been raised to his perusing the minutes of the court, he considered he might avail himself of Mr. Coleman's assistance, to save time, without actually placing in his hands any documents which might be considered by the Chancellor and council as confidential.

164. That, consequently, your petitioner addressed the following letter to Mr. Coleman:—

"5, Cornwall-terrace, St. George's-road, Pimlico,
"Sir, 18 June 1855.

"For fear of any erroneous constructions being placed by others on the subject of my communications with you, it is perhaps better that I should state in writing, that in consequence of the high testimony borne to me of your great ability and extensive experience in matters of account, I have been induced to apply to you for assistance and advice, with reference to the accounts of the Duchy of Lancaster, of which I am the auditor.

"My object, in the present and first instance, is to have assistance in the examination of the accounts now in the office, so that they may be rendered to Parliament, if possible, in an audited state, before the close of the session. Secondly, that by this means you may have an opportunity of stating to me your opinion of the system upon which the accounts are now kept, and of the books by which it is worked. Whether the system is defective, and, if so, in what respect; how the system can be improved, with a view to systemise, simplify, and keep a ready and daily check on all the cash transactions of the duchy, so that at any time the balance, which should be in the bank or in the hands of the receivers, may be seen by reference to the account books of the duchy; also that the debits and credits by the banker, may of themselves be (by their amounts) a definite check on the debits and credits in the accounts rendered by the receiver without my having to enter into a disentanglement of other and prior accounts, in order to prove the sum in the existing account, which should have been paid to the bank.

"I shall be at the duchy office in Lancaster-place to-day, soon after 4 o'clock, and, as the accountant's deputy will leave town to-morrow for a fortnight, to collect rent in the country, it is most important, considering the advanced period of the session, that we should meet there this afternoon, as soon as you can come after that hour.

"I am, Sir,
"Your most obedient Servant,
"*Francis R. Bertolacci.*"

"J. E. Coleman Esq.,
"36, Coleman-street, City."

165. That, on the same day, your petitioner wrote to Lord Harrowby as follows:—

"5, Cornwall-terrace, St. George's-road, Pimlico,
"My Lord, 18 June 1855.

"I hope I may, without being considered by your Lordship as troublesome, advert to my letter of the 11th instant, in which I ventured to ask you if you had the account of sums received and paid by the receiver-general, from the 30th September 1853, to 29th September 1854, which his deputy said could not be found in the office, and was supposed to have been taken into your Lordship's possession.

"This account is one of those which I was compelled, by your Lordship's first letter to me, to return to the deputy of the receiver-general.

"With a view to expedite the examination of the accounts now in the office of the duchy, and if possible to suggest a plan for putting them on such a system for the future, as will allow of the sums which should be paid into the bank being checked without my having to revert to, and disentangle the accounts of past years, I have, in pursuance of the permission granted to me by my patent, selected, after proper inquiry, a professional accountant of ability and great experience to assist me; I hope therefore that this course, which, even at a pecuniary sacrifice to myself, I am about to adopt, will meet with your Lordship's approbation.

"I have the honour to be, my Lord,
"Your Lordship's most obedient humble servant,
"*Francis R. Bertolacci.*"

"The Right Honourable the Earl of Harrowby,
&c. &c. &c."

166. That

166. That Mr. Coleman having come to the duchy office at half-past four o'clock in the afternoon of the same day (18th June 1855), your petitioner introduced him to Mr. Gooch, the clerk of the duchy, who acts as deputy receiver to General Fox, and stated to him that Mr. Coleman had come to assist in the audit of the accounts as your petitioner's deputy; and your petitioner requested Mr. Gooch to produce the books which he kept, and which he had heretofore laid before your petitioner as auditor.

167. That Mr. Gooch positively refused to show any books without an order from the Earl of Harrowby.

168. That, therefore, your petitioner referred Mr. Gooch to the terms of his (your petitioner's) patent, and said that he wished to depute to Mr. Coleman the examination of part of the accounts, but would not show him the minutes of the court, which your petitioner said he intended to keep private to himself; but Mr. Gooch persisted in withholding the books from your petitioner until Mr. Coleman had left the duchy office.

169. That your petitioner, therefore, sought from the Earl of Harrowby, the Chancellor, as the head of the law within the duchy, the protection which he found himself in need of, in consequence of the opposition set up by General Fox's deputy receiver, to the rights and powers granted to your petitioner by letters patent from the Sovereign, and for that purpose, addressed a letter to his Lordship, of which the following is a copy, viz.:—

"5, Cornwall-terrace, St. George's-road, Pimlico,
"My Lord, 19 June 1855.

"I have the honour to acknowledge your Lordship's letter of yesterday afternoon, which I found at my house on my return from the duchy office last night, informing me that you could neither find the receiver-general's cash account, nor charge yourself with having had it, which I much regret, as the want of it increases the difficulties which exist to the examination of the accounts.

"In pursuance of the communication, I took the liberty to make to you, by my letter of yesterday morning, I introduced Mr. Coleman, a trustworthy and experienced professional gentleman, to Mr. Gooch, the deputy of the receiver-general, to be present and render me assistance during my auditing the accounts; but Mr. Gooch positively refused to produce the account books and vouchers to me in his presence without an order from your Lordship. I therefore beg leave most respectfully to request you to give an order for the account books, accounts and vouchers to be laid before Mr. Coleman, or his assistant, when I am auditing the accounts.

"I have the honour to be,
'My Lord,
"Your Lordship's most obedient humble servant,
"The Right Honourable the Earl of Harrowby, "*Francis R. Bertolacci.*"
"&c. &c. &c."

170. That, on the third day, Lord Harrowby replied as follows:—

"Sir, "House of Lords, 21 June 1855.

"In reply to your application to be allowed to submit the accounts of the duchy, or portions of them, to an accountant, I should wish to have from you a distinct statement of the grounds for such an application.

"I am, Sir, your obedient servant,
"F. R. Bertolacci, Esq." "*Harrowby.*"

That your petitioner replied to his Lordship as follows:—

"5, Cornwall-terrace, St. George's-road, Pimlico,
"My Lord, "26 June 1855.

"Your Lordship's letter of 21st instant, which was addressed to me at the Ordnance Office, reached me when I was confined to the house by ill health.

"Your Lordship says, 'In reply to your application to be allowed to submit the accounts of the duchy, or portions of them, to an accountant, I should wish to have from you a distinct statement of the grounds for such an application.' I beg leave, therefore, to recall to your Lordship's recollection that in my letter of the 18th instant I said, 'that with a view to expedite the examination of the accounts now in the office of the duchy, and, if possible, to suggest a plan for putting them on such a system for the future as will allow of the sums which should be paid into the bank being checked, without my having to revert to and disentangle the accounts of past years, I have, in pursuance of the permission granted to me by my patent, selected (after proper inquiry) a professional accountant of ability and great experience to assist me. I hope, therefore, that this course which, even at a pecuniary sacrifice to myself, I am about to adopt, will meet with your Lordship's approbation. In your Lordship's reply the following day you opposed no objection, and I beg leave respectfully to observe, that by my letter of the 19th, I did not ask for anything more than had been already granted to me by Her Majesty's letters patent; that I notified my intention out of personal respect to your Lordship, and that, on an unexpected obstacle arising, I applied

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plied to your Lordship, as Chancellor of the duchy, to make such an order as would remove the impediments which had been set up to my privileges and powers, as auditor, by the party whose account I had under examination.

"I have the honour to be,
"My Lord,
"Your Lordship's most obedient humble servant,
"*Francis R. Bertolacci.*"

"The Right Honourable
"the Earl of Harrowby,
"&c. &c. &c."

171. That, notwithstanding Lord Harrowby was chief law officer within the duchy, and as such was bound to enforce obedience to the special rights and powers of the auditor, his Lordship refused to let him appoint a deputy to render him assistance, but, on the contrary, sided with General Fox's deputy receiver in the opposition he set up to those rights and powers, and wrote the following letter to your petitioner, viz.:

"Sir, "June 29th, 1855.

"I cannot find that any instance is on record, in which the auditor has been allowed to appoint a deputy to assist him in the discharge of his duty, it being supposed that he is competent to discharge that duty himself.

"In this case there would be great inconvenience in allowing you the permission.

"I am, Sir,
"Your obedient servant,
"*Harrowby.*"

"F. R. Bertolacci, Esq."

172. That the Earl of Harrowby thus illegally opposed his own will to a lawful authority, emanating from the Head of the State, and (with a design which will hereafter be seen) prevented your petitioner from availing himself of the last means left of auditing the accounts in time for the Session of Parliament in 1855, and by so doing his Lordship co-operated in the hindrances previously offered to your petitioner by the combination of Sir Charles Trevelyan and Mr. Monsell with Earl Granville, to withhold from your petitioner the time which ought to have been allowed to him to audit the accounts in accordance with the understanding he was led to rely on at the time of his appointment as auditor.

173. That these illegal and unjustifiable proceedings of Lord Harrowby, by which your petitioner was prevented from discharging his duties, were in accordance with his Lordship's attempt, in the month of May preceding, to carry out the wishes of General Fox, that the office of auditor should be taken from your petitioner; which fact was made evident by a letter from General Fox to your petitioner, dated 9th February 1855, and another from Lord Harrowby, dated 4th May 1855.

174. That your petitioner, notwithstanding these hindrances, continued to go to the duchy office after the official hours at the War Department, and to make the best inquiry and examination he could into the accounts under such disadvantageous circumstances, which your petitioner is prepared to prove to your Honourable House, by the notes he took from the accounts.

175. That from the time your petitioner first commenced to audit the accounts, he experienced not only a disrespectful, but also an offensive tone of language and behaviour from the clerk in the duchy office who acted as General Fox's deputy-receiver; and your petitioner, therefore, consulted the Principal Clerk Assistant to the Secretaries to the Treasury (being the gentleman to whom the arrangement and discipline of that department was entrusted) as the most fit person to advise the proper course to be adopted under circumstances of this nature.

176. That although your petitioner was advised to notice, briefly, the conduct of General Fox's deputy, he refrained as long as possible from doing so, for he saw that these affronts were offered to him to cause a diversion from the close investigation which he was making into the duchy affairs; but, on the 2d July 1855, this offensive conduct was repeated still more forcibly, and to an extent which your petitioner could not overlook, without dispensing with the attention due to him in the discharge of his duties, such misbehaviour being accompanied by an evasive answer to your petitioner's inquiries in auditing the accounts.

177. That your petitioner therefore reminded the clerk, acting as General Fox's deputy, that he had always treated him with civility and politeness, and requested that he would not forget himself; which gentle remonstrances, however, only drew from him a still more offensive reply. That your petitioner recorded the facts herein alluded to by a memorandum of the circumstances taken on the spot; namely, at the duchy office, on 2d July 1855, as hereinafter inserted, and he also wrote to Mr. Stephenson, the Principal Assistant Clerk to the Secretaries to the Treasury, on 3d July 1855, mentioning what had transpired.

178. That your petitioner addressed the following letter to the Earl of Harrowby, enclosing a copy of the memorandum he had made of the conduct of the clerk, as hereinafter set forth, viz.:—

"5, Cornwall-terrace, St. George's-road, Pimlico,
"My Lord, "5 July 1855.

"It is with much reluctance that I feel myself under the necessity of submitting to your Lordship a copy of a memorandum of the behaviour to which I have been exposed in the discharge

discharge of my duties, as auditor, and I can assure you that in addressing myself to the gentlemen of the duchy office I have always been most particular in using terms of civility, from a desire to act consistently with my own feelings, and to avoid any pretext for converting questions, purely official, on matters of account, into a personal difference.

"With reference to the letter I have had the honour to receive from your Lordship, dated 29th June 1855, refusing to allow me to avail myself of the assistance of a professional accountant, even at my own expense, to examine the accounts now in the office, and to devise a system for keeping them in future, which would render them more intelligible and easier of examination than at present, I beg leave to inform your Lordship that I had already made arrangements to apply to that purpose the remaining days of private leave of absence which the head of the Ordnance has this year allowed to me for relaxation, and I hope your Lordship will do me the favour to desire that I may be allowed to apply that time without hinderance.

"It is, however, necessary that I should distinctly and prominently call your attention to the facts, that this ancient, and it would appear, extensive property of the Sovereign yields a rental only of about 28,000*l.* per annum. That of the above sum about 15,000*l.* only is paid over for Her Majesty's use; that a balance of about 7,000*l.* is yearly brought forward in the accounts as being to the credit of the receiver-general at the bank, besides the additions thereto, which temporarily exist by the collection of the half-yearly rents, from which large sums Her Majesty derives no interest; that, by the system upon which the fee-fund account is kept, sums are yearly paid out of the duchy revenue to it, and that certain officers of the duchy derive sums from this fee fund which are not shown in the Return to Parliament, but which increase the amounts therein stated to have been received by them on account of their offices, while the yearly account rendered by the receiver-general (being without dates of receipts and payments, and not being made up from systematically recorded cash and ledger accounts, having warrants and vouchers to correspond with the entries therein) precludes the possibility of the auditor examining the accounts, without the attendance of the receiver-general's deputy, and places him at the mercy of the parties accountable for the information with which he has to check their accounts.

"I do not for a moment impute irregularity nor deficiency, but I am bound to state, which I do most confidently, that the defective system of accounts maintained exposes the duchy to serious risk; and it is my opinion, that the course I suggested of having the above system investigated by a professional accountant would have been very beneficial.

"The appointment was given to me both as a reward for public services and to protect me from the loss of official income which I should have sustained in consequence of the transfer of considerable funds to the Treasury.

"When I was appointed auditor of the duchy, I was anxious to apply the qualifications, which I had heretofore successfully devoted to the public service, to the benefit of Her Majesty's private revenue; but the defective system prevailing, and other impediments, have prevented my doing so.

"I have the honour to be,
"My Lord,
"Your Lordship's most obedient humble servant,
"*Francis R. Bertolacci.*"

"The Right Honourable the Earl of Harrowby,
"&c. &c. &c.
"39, Grosvenor-square."

Enclosure.

"Memorandum, 6h. 25m. P.M., Monday, 2d July 1855.—That this evening, being on the examination of the duchy account, and having asked Mr. Gooch to explain to me how 4*l.* 1*s.* 2*d.* was brought into the rental account from the sub-account of the bail of Lincoln, he, in an offensive manner and domineering tone of voice, which he has assumed during the whole of my examination of the duchy accounts, said, 'If you will look, as I have shown you fifty times, you will see;' and with these words slapped his hand on the book before me. That, I said in a mild tone of voice to him, 'Mr. Gooch, I must really ask you not to forget yourself—I have always treated you with civility and politeness.' To this he replied, 'If you come any of that nonsense with me I shall leave you at once.'

"That I was going to leave the duchy office on receiving this reply, but I have come back to the room and made this memorandum.

"*F. R. Bertolacci,*
"Auditor of the Duchy of Lancaster.

"I have read this memorandum to Mr. Gooch, 6h. 40m. P.M., 2d July 1855.
"*F. R. Bertolacci.*"

"Additional memorandum, evening of 2d July 1855.

"That Mr. Gooch, on hearing this memorandum read, said, 'Shall you be here to-morrow; need I wait after four o'clock?' to which I replied, 'I shall communicate with the proper authorities.' No other words transpired.

"*F. R. Bertolacci.*"

179. That the Earl of Harrowby made no reply whatever to the foregoing letter, nor is your petitioner aware that his Lordship either reproved, or even took any notice of the misconduct of the clerk.

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179 A. That your petitioner, being desirous to avoid any collision with the party who had behaved in so offensive a manner, wrote the following letter to the clerk of the council, viz.:

"Ordnance Office, Pall Mall,
"Sir, "3 July 1855.
"I shall be obliged to you if you will have the goodness to desire that the warrants and vouchers, with the accounts for the years 1853 and 1854, be placed in a separate room from that in which the clerks sit; and I request that you will also do me the favour to tell one of the messengers to wait until I come to the office this afternoon.

"I am, sir,
"F. D. Danvers, Esq., "Your most obedient servant,
"Duchy of Lancaster." "*Francis R. Bertolacci.*"

That to the above letter the clerk of the council replied as follows, viz.:—

"Duchy of Lancaster, Waterloo Bridge,
"Sir, "3 July 1855.
"In reply to your letter just received, I beg to acquaint you that there is no other room than that in which the clerks sit wherein to accommodate you.
"With regard to your wish that one of the messengers should wait until you come to the office this afternoon, I regret that having been obliged to send one to the Home Office and to Buckingham Palace, the other is obliged to leave the office with other letters, &c.

"I am, sir,
"Your very obedient servant,
"Francis R. Bertolacci, Esq." "*Fk. Dawes Danvers.*"

That this is another instance of the impediments systematically raised against your petitioner's endeavours to examine the accounts, as, at the time, there were two rooms which he could have inhabited, one of which he afterwards actually did use for the purpose of auditing the accounts.

180. That a letter, of which the following is a copy, was written by Mr. Stronge, the Parliamentary Clerk to the Treasury, and being marked "immediate," was transmitted to your petitioner, at past three o'clock in the afternoon of 6th July 1855, by a Treasury messenger:—

"Dear sir, "Treasury, 6 July 1855.
"What answer is to be given by Mr. Wilson to the following question, that is to be put to him this evening, in the House of Commons—Why the accounts of the receipts and disbursements of the Duchy of Lancaster have not been laid upon the Table of the House?

"Yours truly,
F. Bertolacci, Esq." "*Chas. W. Stronge.*"

181. That without loss of time your petitioner returned a reply by the messenger, at quarter to four o'clock, namely:—

"Ordnance Office, Pall Mall,
"My dear sir, "5 July 1855.
"I must beg leave to refer you to my last communication* on the subject of the Duchy of Lancaster accounts, to which I have only to add, that they are not examined, because the Chancellor desired that the accounts which my predecessor had left unexamined should be audited first; that the system by which the accounts are kept is, in my opinion, defective, yet complicated; that the Government have allowed me no time to examine the accounts; that, with a view to expedite the examination of the accounts, and to establish them in future on a more simple mode of being kept, and one which would render the auditing of them easier and a more effective check, I attempted to exercise the powers conveyed to me by Her Majesty's letters patent, of appointing a professional accountant of celebrity and established respectability, who has been engaged (I understand) in matters connected with the Palace, to assist me; that I met with the refusal of the accountable party, whose accounts I had under examination, to produce either account books or vouchers to me; that I represented these matters to the Chancellor, whose support I called for in protecting the privilege of my office for the object herein stated; that I have failed to meet with the support I asked for; that the present head of the Ordnance Department, some time ago, issued a general order, granting six weeks leave of absence, instead of four weeks, to the gentlemen of the department, in consideration of such days as they had been absent on leave since last summer being deducted from the aggregate; that recently the aggregate has, by his order, been reduced to three weeks, from which are to be deducted the days of previous absence; that by this means, having been absent 12 days, six days private leave of absence only remain for me, which I have been waiting to apply to the duchy accounts as soon as I could get the impediments removed to which I have alluded; that a private understanding existed between Mr. Monsell and Mr. Strutt, at the date of my appointment to the duchy, that if the latter applied for two or three weeks leave for me to audit the duchy accounts,

* The communication referred to, was a letter of 15th June 1855. (*See* paragraph of this petition, 149.)

accounts, it would be granted to me, which understanding was at the time mentioned to me by Mr. Strutt, and was admitted to be the fact by Mr. Henry Smith (Mr. Monsell's chief clerk), to whom I mentioned it at the time; but that, subsequently, Earl Granville, when he was Chancellor of the duchy, communicated to me that Mr. Monsell had refused to grant me leave of absence for the purpose, on his (Lord Granville's) application to him on the subject. Appendix, No. 15.

"I have, therefore, to request that if Mr. Wilson answers at all upon the faith of my letter, that he will communicate the whole substance of it to the House of Commons.

"Yours truly, in haste,
"*Francis R. Bertolacci.*"

"C. W. Stronge, Esq., &c., &c., &c.,
"Treasury."

182. That Mr. Wise, an Honourable Member of your House, having, on 6th July 1855, put the question, "Why the accounts of the Duchy of Lancaster had not been laid upon the Table of the House—the accounts of the duchy were generally presented in the month of February?" The answer given by Mr. Wilson was not that which your petitioner had returned in reply to the inquiry made of him, but was as follows: "That with regard to the accounts of the Duchy of Lancaster, there had been some unsatisfactory delay; and he had that day communicated with the Chancellor of the duchy on the subject."

183. That by the answer given to the Honourable Member, your Honourable House was kept in ignorance of the facts stated in your petitioner's reply to the Treasury; and that the accounts had been, by the orders of the Chancellor of the duchy, withheld from the auditor; and that, although they had been closed on the 22d February, they were not delivered to him until the month of June, upon his urgent application for them, and not until after attempts had been made to displace him in the month of May, without their being rendered to him.

184. That your petitioner having decided to devote to the audit of the duchy accounts the six days allowed to him by the Ordnance Department for recreation, and to attend at the duchy office from the 9th to the 14th July 1855, wrote to Mr. Danvers, the clerk of the council, on Friday, the 6th July, and enclosed a paper, requiring the clerk under the clerk of the council, who acted as deputy receiver to General Fox, to place on the "receiver-general's Account," which had to be audited, the necessary references to the subsidiary accounts, warrants and vouchers to such account, so that your petitioner might proceed, without obstruction or delay, in testing the receiver-general's account by the documents appertaining to it.

185. That although the requisitions by your petitioner were precise and definite, no attention was paid to them; and when he attended at the duchy office, on the 9th July 1855, he found the accounts void of the necessary references from them to the documents above alluded to; and thus additional difficulty and obstruction, as well as delay, were placed in his way.

186. That on the 7th July 1855 (being the day after Mr. Wilson had stated to your Honourable House that he had communicated with the Chancellor of the duchy), the following mis-statement of what had transpired in the month of May preceding appeared in the "Literary Gazette," to the prejudice of your petitioner, namely—

"Mr. Francis Robert Bertolacci, who was selected some 12 months ago for the appointment of auditor of the Duchy of Lancaster, held by the late Mr. Lockhart, has been formally reinstated, after having retired from the office by the special permission of the present Chancellor, the Earl of Harrowby. This selection has lost none of its unpopularity."

187. That this paragraph was traced by your petitioner as having been sent to the "Literary Gazette" by a party named Charles Augustus Cole, of the Record Office, who expressed a wish to be addressed at the Garrick Club, instead of at that office; and when he was pressed to give up the party's name upon whose authority he had, in so positive a manner, made the above statement, he gave evasive answers.

188. That the last sentence of the paragraph quoted from the "Literary Gazette" had reference to the two slanderous and scurrilous insertions which had been made against your petitioner, without a particle of foundation or provocation on his part, viz.—A letter to the editor of the "Times," by "J. C.," inserted in that paper 7th December 1854, and a paragraph in the "Civil Service Gazette" of the 9th December 1854, copied into the "Times" of the same day; copies of which (with notes thereon proving their falsity) your petitioner will, if permitted, submit to your Honourable House.

189. That from the 17th to 21st July 1855, your petitioner was in correspondence with the publisher of the "Literary Gazette," to ascertain the author of the paragraph of the 7th of that month. That on the 21st of July 1855, Mr. William Mitchell, the head clerk in the Ordnance Office, who was then superintending the department immediately under Mr. Monsell, gave to a gentleman of it, who had already had the full absence officially sanctioned, a further unlimited leave, and selected your petitioner to do his work, which was new to your petitioner, and of such a nature as to oblige him to remain at the Ordnance Office daily to a much later hour than that to which his ordinary duties had required his attendance.

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190. That thus another and serious impediment was opposed to the efforts your petitioner was making to audit the duchy accounts, notwithstanding the denial to him of the time he had been specially led to rely on for that purpose, when he was appointed auditor of the duchy, and notwithstanding the reduction from 24 days to 6 days ordinarily granted for repose from official work, which he had stated to Mr. Monsell he wished to devote to the duchy accounts; and your petitioner begs leave, humbly, to call the attention of your Honourable House to the fact that the several impediments and obstructions narrated (which appeared to be so systematically raised and opposed to his proceedings), were, after he had evinced the determination to minutely investigate the past accounts and transactions of the duchy, by which the long arrear of rent due by Earl Granville would have been disclosed, and after his Lordship, Mr. Monsell, and Sir Charles Trevelyan had first co-operated to place your petitioner in a hampered position; and that Earl Granville had then conveyed to your petitioner the suggestion of Mr. Monsell and Mr. Henry Smith (Mr. Monsell's chief clerk), that he should resign his office of auditor to the duchy.*

191. That when your petitioner, notwithstanding the foregoing hindrances, was devoting his evenings to the laborious investigation of the accounts, Lord Harrowby, on the 25th July 1855, addressed the following letter to your petitioner at the Ordnance Office during official hours; viz.—

"Sir, "Duchy of Lancaster Office, 25 July 1855.

"I shall be obliged to you for information as to the progress you have made in auditing the accounts of the duchy.

"I am, Sir,
"Your obedient Servant,
"*Harrowby.*"

"F. R. Bertolacci, Esq."

To which your petitioner replied as follows, by the duchy messenger who brought Lord Harrowby's letter, viz.:—

"My Lord, "Ordnance Office, Pall Mall, 25 July 1855.

"I have the honour to acknowledge the receipt of your Lordship's note of to-day.

"I am not able to answer the question which you put me without referring to papers which I have not by me at this office, but I will attend to your Lordship's demands without delay.

"I have the honour to be, my Lord,
"Your Lordship's most obedient humble Servant,
"*Francis R. Bertolacci.*"

"The Right Honourable the Earl of Harrowby,
"&c. &c. &c."

Immediately after your petitioner had returned the above reply, he received another letter from his Lordship, as follows:

"Sir, "Duchy of Lancaster Office, 25 July 1855.

"I have just written to you to ask for information as to the progress which you may have made in auditing the accounts of the duchy. I would wish to add to that inquiry another, whether the accounts of the year 1854 are yet audited?

"I am, Sir,
"Your obedient servant,
"*Harrowby.*"

"F. R. Bertolacci."

192. That your petitioner was informed by the duchy messenger who brought Lord Harrowby's second note to him, that his Lordship had written it without waiting for the reply to the first, and had then immediately left the duchy office.

193. That your petitioner lost no time in furnishing to the Earl of Harrowby the information his Lordship required, and the next day wrote the following letter; viz.:—

"5, Cornwall-terrace, St. George's-road, Pimlico,
"My Lord, "26 July 1855.

"I beg leave to state, in reply to the two notes which I had the honour yesterday to receive from your Lordship, that the portions of the accounts for 1853 over which my examination has as yet reached, are the dividends on stock account; the timber account, which involved the examination of several sub-accounts; creation money; the account which relates to small branches of revenue; a portion of the grants in fee, and a portion of the trust fund accounts; a portion of the salaries; the fee fund account; and the rents chargeable on account of the counties of Berkshire, Buckinghamshire, Derbyshire, Essex, Glamorganshire, Gloucestershire, Hampshire, the County Palatine of Lancaster, Leicestershire, Lincolnshire, Middlesex, Monmouthshire, and Norfolk, on which I am at present engaged; and, with reference to the accounts for 1854, a similar examination has taken place into the rents payable in the before-mentioned counties.

"In order that no time should be lost which could possibly be devoted to the examination of the accounts of the duchy, I applied to Mr. Monsell, the head of the Ordnance Department, for the leave of absence he would grant me for relaxation and recreation during

* *See* letter from Earl Granville on 18th January 1855, quoted at paragraphs of this petition, 87 and 88.

during the year, informing him, at the same time, that my object in wishing for such absence from the office was to audit the accounts of the duchy. By the order he then made, a week only was allowed to me, which I applied to the duchy business; but, before doing so, I drew up a paper on Friday the 6th instant, requesting that references would be given from the entries in the accounts laid before me to the documents vouching the amounts of such entries, and (relying on the production of such information) I accordingly made arrangements at the Ordnance Office to be absent from Monday the 9th until Saturday the 14th instant.

"I regret, however, to have to state that no notice was taken of my requisition until Friday the 13th, when I found that a very small portion of the references to the items of the account for 1853 only had then been inserted; thus (by this delay) being prevented from making the advantageous application of even this absence from my Ordnance duties which I had hoped to do for the duchy.

"Yesterday evening on looking at the same account, I found that the remainder of the references required had just been inserted, while none at all have been put to the items of the account for 1854.

"I feel bound to state these facts without any inimical feeling to anybody, as the mode in which the accounts are prepared for the auditor is a compilation and classification of transactions without reference to dates of receipts and payments, rather than an account made up from a proper system of journal and ledger; and it is only on attempting to test the correctness of such compiled statement, that any notion can be formed of the great expenditure of time and labour which is caused by the want of direct references on the face of the account, from the items to the vouching transaction to them, and to the entries in the books of enrolment, banker's pass-book, &c.

"I wish also to inform your Lordship, that both before and since the week's leave to which I have alluded in this letter, I have applied myself for two or three hours per day to the accounts of the duchy, at the office, after the labourious duties I have had to discharge at the Ordnance during the official hours, from ten to four and five o'clock, and that, had the ordinary facilities existed to allow me to satify myself of the correctness of the accounts laid before me, the examination of them would most probably by this time have been completed.

"I have the honour to be,
"My Lord,
"Your Lordship's most obedient humble Servant,
"*Francis R. Bertolacci.*"

"The Right Honourable
"the Earl of Harrowby,
&c. &c. &c."

194. That Lord Harrowby treated the above letter from your petitioner with the same silent disregard which his Lordship had shown to all your petitioner's former letters, reminding his Lordship of the impediments and opposition raised to the investigation of the duchy accounts and transactions.

195. That although, on 26th June 1854, the clerk of the council refused to allow your petitioner free access to the minutes, and that from that date to 14th November 1854, Earl Granville (the then Chancellor) withheld from your petitioner his Lordship's assent to his having the free access to the minutes of the duchy, which was necessary to allow him thoroughly to investigate the proceedings connected with the property of the duchy—that although the Chancellor and council relaxed in this respect on 14th November, and that their decision was not communicated to your petitioner by the clerk of the council until the 20th November 1854 (being a week after the minute of the court)—that although, on your petitioner then wishing to enter on an examination of the accounts for the year ending 29th September 1853, he was told by the clerk of the council that the clerk who acted as deputy to the Receiver-general could not be in attendance on him for a fortnight, as he was going to collect the rents in the country (the imperfect system of account rendering such attendance indispensable)—that although your petitioner after this, on the 21st December 1854, asked for a cash account for the year ending 29th September 1854 (so that he might ascertain what arrears of 1853 had been subsequently paid, and check it with the account of the receiver-general for the period to which it related), but received it only on 24th January 1855—that although the receiver-general's account to 29th September 1854 (which had to be audited as the basis of the return to be presented to the House of Commons) had been withheld from your petitioner by Earl Granville's secret instructions—that although these facts were all made known to the Earl of Harrowby in April, and in the beginning of May 1855—that although the Earl of Harrowby then sided with the parties who should have rendered the accounts, and compelled your petitioner to relinquish the previous account, which for reasons of check he wished to retain, and that his Lordship did not until 24th May 1855, assent to the account for 1854 being given to your petitioner—that although the questions (upon which depended the extent to which the Earl of Harrowby would allow the pecuniary transactions of the duchy to be inquired into by the auditor) were put to his Lordship in writing on the 19th May, and his Lordship promised they should be responded to in two or three days from 24th May, were not however answered until the receipt on 7th June, of a letter dated the day before—that although your petitioner notwithstanding these delays, and the other impediments placed in his way, had been occupied at the duchy office every evening after the accounts for 1854 had been rendered to him, and that he was auditing the accounts on Friday, the 10th August 1855, till nine o'clock at night, yet he received the next day (while engaged at the Ordnance), the following letter from Lord Harrowby without any previous intimation of his Lordship's purpose, viz.,—

Appendix, No. 15.

" Sir, " 11 August 1855.

" I have at length found myself under the necessity of transmitting to the Treasury, for presentation to Parliament, the accounts of the duchy without that audit from you, to which I had hoped they might have been previously submitted, and I moreover find, that even the audit of 1853 which, by reason of ill health, had not been carried out by your predecessor, Mr. Lockhart, is not yet completed.

" Looking to these and other circumstances, and to the length of time which has elapsed since you entered on your office in May 1854, I have to come to the final conclusion which, in the month of May last, seemed to me almost inevitable, that I must look elsewhere for the expeditious discharge of the duties of auditor of the duchy.

" Already considerable inconvenience has been experienced in the office, and I feel that this ought not longer to be continued.

" I have therefore taken steps for the appointment of Mr. Hawker, of the Audit Office, as your successor, by which act your patent is superseded.

" I am, Sir,
" Your obedient Servant,
" F. R. Bertolacci, Esq." " *Harrowby.*"

196. That Mr. Hawker (the gentleman of the Audit Office whom Lord Harrowby has placed in the position of auditor) is the nephew of Lady Mary Fox, the wife of General Fox, the receiver-general of the duchy, over whose accounts and cash balances the auditor is the sole check.

197. That Mr. Hawker is one of a large family of sons who are under great obligations to General Fox and Lady Mary Fox, for having been provided for in the public service through their influence. That the advantages which your petitioner had reason to expect from the creditable testimonials of his services during a period of several years in connexion with the Treasury have been nullified, his prospects in life destroyed, and his character (which during 20 years in the public service had never been subject to the slightest imputation) has been damaged in the eyes of the world, by the unlawful and tyrannical act of Lord Harrowby, in arbitrarily assuming the power to supersede his patent as auditor of the duchy.

198. That on your petitioner going to the duchy office, the same day that he received Lord Harrowby's letter (namely on 11th August 1855), he found all the books and accounts taken from the room in which, up to the night previous, he had been auditing the accounts.

199. That in evidence of the predetermined intention of Lord Harrowby to supersede your petitioner, and appoint Mr. Hawker in his place, your petitioner adduces the fact, that his Lordship (when countenancing General Fox's detention of his own account, as receiver-general, from your petitioner as auditor in the month of May 1855) stated at the same time to another party the view he had of appointing in the place of your petitioner a gentleman from the Audit Office, and his Lordship had recourse to making a statement respecting that office which was not the fact to give a colour of propriety to this intention—which fact your petitioner, if permitted, is prepared to prove to your Honourable House by documents in his possession.

200. That his Lordship has thought fit to advance the illness of Mr. Lockhart, your petitioner's predecessor, as a reason why the accounts for the year ending 29th September 1853 were not audited so late as the month of May 1854, at which time, in fact, those only ending on 29th September 1852 were audited: whereas the reason assigned in September 1854, by the receiver-general's deputy, for the delay, was that the accounts had been kept open to afford Earl Granville an opportunity of paying his arrears of rent due to the duchy; but which, notwithstanding, continued in arrear.

201. That although Lord Harrowby sought, in the illness of Mr. Lockhart, a specious reason for delay, and even omission in the auditing of the accounts, yet his Lordship could make no allowance for the extra labour thus thrown on your petitioner, but, on the contrary, after continued impediments had been raised by the Chancellors and clerk of the council to your petitioner's inquiry into the affairs of the duchy, after the accounts had, by the receiver-general and the Chancellors been withheld for a length of time from your petitioner, and after various attempts had been made to induce him to resign, his Lordship actually offered illegal opposition to your petitioner availing himself of assistance by deputy, although authorised to do so by Her Majesty's letters patent, and thus it will be seen that the reasons adduced by his Lordship in his letter (hereinbefore inserted) of the 11th August 1855, for the act by which he alleges to have displaced your petitioner, although plausible, are yet groundless and disingenuous, and have emanated from design. That therefore your petitioner replied to his Lordship thus:—

" 5, Cornwall-terrace, St. George's-road, Pimlico,
" My Lord, " 13 August 1855.

" Your Lordship's letter of the 11th August 1855, addressed to me at my private residence, was delivered to me at the Ordnance Office by the duchy messenger, who stated that your Lordship had left the duchy office, and that there was no answer required.

" The determination which your Lordship took in the month of May last, immediately on your receiving the seals of office, when General Fox (the receiver-general) applied to you to displace me from the the office of auditor of the Duchy of Lancaster before he

rendered

rendered his account for the last year, and before your Lordship had had any communication with me, convinces me that any endeavour on my part to induce you to change your resolution would be out of place and useless.

"I must, however, in self-defence, be permitted to state that the grounds which your Lordship has chosen for attempting to deprive me of my office, are those to which your Lordship has mainly contributed in creating, by countenancing the efforts of the accountants to resist my inquiries, and by preventing me from exercising the rights and privileges which were granted to me by Her Majesty's letters patent, to facilitate my proceedings in effectually discharging the duties of my office.

"Your Lordship has been made acquainted with the fact, that the appointment of auditor of the Duchy of Lancaster was given to me by the late administration, both in fulfilment of a pledge that I should not be a loser of official income by the transfer of a fund to the Government from which I had received a salary (the reward of previous merit), and also as a testimony (by the superior position of the office thus conferred upon me) of the services I had rendered to the public, in the discharge of responsible and difficult duties under the Lords of the Treasury, during a period of six years. I beg leave therefore, most respectfully, but strongly, to protest against the justice of your Lordship's decision, as well as against the legality of the proceedings, and the means by which your Lordship has been pleased to carry out the resolution you made in the month of May last, to deprive me of these advantages; and I humbly remark, that your Lordship's censure is the more uncalled for, as every disposition has been shown on my part to use the powers which appertain to the office I have the honour to hold in the duchy, in performing the duties of it in an honest and efficient manner, for the protection of Her Majesty's interests.

"I wish to add, that I consider the course dictated to me, after my appointment was made, and the ordinary forms of audit if applied to the duchy accounts, would not have afforded the examination of them to which they should be subject, and that my signature on such superficial grounds would operate as an illusion. It is for these reasons that I have preferred that the accounts should remain without being signed, until I had thoroughly investigated them, rather than that any personal considerations should induce me to give a certificate to Parliament of the correctness of transactions, which on account of time and means having been withheld from me, I had not been able yet to satisfy myself.

"I have reason to believe that your Lordship is not unaware, that, after the labourious duties of the Ordnance Office in times like the present, which have kept me there from quarter past ten in the morning, until half past five, six, and even later in the evening, I have been at work at the duchy office until eight, and even later at night.

"Nothing is more distant from my wishes than to thwart the present Government, or to show any mark of disrespect to your Lordship; but as my conduct as a public officer of nearly 20 years' service, and as a private individual, is impeached by the communication which you have made to me, I feel that to vindicate my character and conduct, no other course is left open to me than a public investigation, and I must, therefore, candidly avow to your Lordship my intention, on the reassembling of Parliament, to petition the House of Commons to grant an inquiry into the matter.

"I have the honour to be,
"My Lord,
"Your Lordship's most obedient humble Servant,
"*Francis R. Bertolacci.*"

The Right Honourable
"the Earl of Harrowby,
&c. &c. &c."

202. That on the morning of Tuesday, the 14th August, after Lord Harrowby's letter of Saturday evening, the 11th of that month, and after the apparent grounds therein mentioned for displacing your petitioner, had been created by the combined proceedings of those who, on the contrary, should have facilitated his efforts, your petitioner was told by Mr. William Mitchell, the head Ordnance clerk under Mr. Monsell, that he might resume his ordinary duties. That Mr. William Mitchell had taken your petitioner from such duties, ostensibly that he might supply the place of an absentee from the office, but, in reality, to make him discharge the duties of a party to whom he then gave an additional, extraordinary, and lengthy leave of absence; and, virtually, by which means your petitioner was daily detained later at the Ordnance Office from the date of Lord Harrowby's inquiry of his progress in the examination of the duchy accounts, until the period within which those accounts were required to be audited for Parliament had exactly expired.

203. That Lord Harrowby, by his reply on the 17th of August 1855, to your petitioner's letter of the 13th, denied the fact that the patent office of auditor of the Duchy of Lancaster was given to your petitioner as a reward for his public services, and to protect him against the loss of income which he would have sustained by the transfer of a fund to the Government from which he had derived a salary, and his Lordship attempted, by an allegation of what was a mere form, to support such denial of what, in reality, was the truth, and thus he threw on your petitioner the odium of having apparently stated an untruth.

204. That for this purpose his Lordship had recourse to a stratagem, by stating that Mr. Strutt had no other object in appointing your petitioner as auditor than to secure an efficient officer to the duchy; and by making it appear that that gentleman had acted as a party independent of Government influence in placing the patronage of the duchy at the disposal of the Chancellor of the Exchequer.

205. That

Appendix, No. 15.

205. That your petitioner can prove, by the voluntary avowal of Lord Belper on the 19th June 1854 (then the Right honourable Mr. Strutt, and Chancellor of the Duchy), that he did not consider himself a functionary independent of the Government, but, on the contrary, that he accepted the office of Chancellor of the Duchy of Lancaster on the understanding that he was at the service of the Government.

206. That your petitioner, in proof of the misrepresentation of the case by the Earl of Harrowby, humbly begs leave to refer your Honourable House to the facts as hereinafter stated, namely—

207. That while your petitioner, under the directions of the Lords of the Treasury, was carrying into effect the Act of Parliament for collecting and vesting in the Crown the Irish Reproductive Loan Fund, and was superintending its expenditure for charitable purposes, &c., he submitted statements of his services to the Earl of Aberdeen, the First Lord of the Treasury, on the 27th August 1853, and on the 28th October 1853, and (with the approbation of the Treasury chiefs with whom he was then working) made applications for employment as secretary or inspector under the Charitable Trust Commission, when the duties on which he was then engaged should be terminated.

208. That in reply Lord Aberdeen's private secretary wrote to your petitioner on the 1st November 1853, stating that his Lordship had directed him to say that a note should be made of the application.

209. That in the month of March 1854 your petitioner submitted three following documents to the Right Honourable William Gladstone, then the Chancellor of the Exchequer, viz.—

1st. A statement of your petitioner's services to the public, in which he appealed against the injustice of Sir Charles Trevelyan in sending him back to a subordinate position at the Ordnance Office, after having been withdrawn from that department for six years to discharge other and responsible duties; and in endeavouring to retract and misconstrue the pledge he had made to your petitioner, notwithstanding his own acknowledgments of your petitioner's services.

2d. The testimonials of the meritorious manner in which your petitioner had performed the difficult duties entrusted to him.

3d. A statement of the several capacities in which your petitioner's forefathers and relatives had served the State, in the Church, the Law, the Army, and the Navy.

210. That your petitioner was informed on the 31st March 1854, by Mr. Gladstone's private secretary, that Mr. Gladstone had had your petitioner's papers before him, and that something would be offered to your petitioner for his acceptance; but, as the arrangements were not completed, he could not then state what the office was. That of this communication your petitioner made a memorandum of the time, which, if permitted, he is prepared to produce to your Honourable House.

211. That subsequently, on the 23d April 1854, your petitioner was informed by Mr. Stephenson, the principal assistant to the Secretaries to the Treasury, who was cognisant of what had transpired, that the office which had been referred to by the private secretary of the Chancellor of the Exchequer was the auditorship of the Duchy of Lancaster, of which communication and others on the subject, your petitioner also made memoranda as they severally took place.

212. That after Lord Belper (then the Right honourable Edward Strutt) had been spoken to on behalf of your petitioner by the Chancellor of the Exchequer, and had been by him referred to those gentlemen, who had known your petitioner both privately and on matters of public business for the previous 19 years, he consulted his Royal Highness Prince Albert before sending for your petitioner.

213. That on the 1st May 1854, when Mr. Strutt first sent for your petitioner to communicate the intention of appointing him auditor of the Duchy of Lancaster, Mr. John Lockhart, who was then the auditor, had not relinquished his patent, and your petitioner was therefore obliged to wait until the 15th May, in order that that gentleman might give up his patent before your petitioner could have the oath of office administered to him.

214. That your petitioner is ready, if permitted, to produce to your Honourable House conclusive evidence of the fact, that the appointment was given to your petitioner in consideration and recognition of his public services.

215. That, therefore, the Earl of Harrowby (by denying the fact that the appointment to the office of auditor of the Duchy of Lancaster was given to your petitioner in consequence of his public services, and by stating that it was merely the result of an application by Mr. Strutt to Mr. Gladstone for an efficient auditor) has misrepresented the real facts of the case, and has adverted to such official forms as all parties connected with public offices perfectly well know are only the result of prior decisions; and his Lordship has adopted this course of argument to screen the unjustifiable collusions and illegal act by which he has taken from your petitioner the reward of merit and of many years service in the discharge of difficult duties, that his Lordship might give the prize to family interest, and in support of family influence.

216. That

216. That since your petitioner was appointed auditor, and since a determination was evinced by him to make a searching inquiry into past transactions of the duchy, it is remarkable that the payments to Her Majesty's Privy Purse increased from 15,500*l.* in the prior year, to 20,000*l.* per annum in the year ending 29th September 1855.

217. That by the accounts of the Duchy of Lancaster for the year ending 29th September 1855, printed by Order of your Honourable House in the month of February 1856, it is shown that the sums paid yearly to the clerk of the council as salary are 1,200*l.* and 142*l.*, making a total of 1,342*l.*; whereas, in the accounts previously presented to Parliament, sums making about one-half only of this amount have been entered in such returns as having been paid to this officer, although, in fact, he has received the larger amount yearly.

218. That in a similar manner General Fox, the receiver-general of the duchy, is (by the last account rendered to Parliament) shown to have been in the yearly receipt of 878*l.* from the duchy, whilst, in the accounts previously submitted to your Honourable House, yearly sums varying from 523*l.* to 607*l.* only have been stated as received by him; and it is remarkable that in the prior returns, showing portions only of the amount paid to him, the entries were made in the name of "Major-general Charles Richard Fox, receiver-general of the duchy;" and that in the last account in which the actual amount has been shown, the entry is only in the name of "The Accountant," thus keeping from the notice of the Honourable Members of your House the comparison between the same items in the returns of the different years. And your petitioner humbly begs leave to call the attention of your Honourable House to the fact, that in no part of such last presented account is it shown who "the accountant" is; but, on the contrary, that the account is rendered as "An Account of Receipts and Payments of the Duchy of Lancaster."

219. That the omissions above referred to, in the returns of prior years are those to which your petitioner alluded in his letter to Lord Harrowby, on 5th July 1855, in the following words:—"By the system upon which the Fee Fund Account is kept, sums are yearly paid out of the duchy revenues to it, and certain officers of the duchy derive sums from this fund which are not shown in the Return to Parliament."

220. That your petitioner (although he has the disadvantage to bear a foreign name) is a British-born subject, and (as shown by the papers submitted to the Earl of Aberdeen and the Right Honourable William E. Gladstone, as hereinbefore stated), your petitioner's ancestors, both on his father's and mother's side, and their relatives, passed their lives in the service of the State.

221. That so subtle and concerted have been the combinations to prevent your petitioner from making the inquiries which, as auditor, he wished to make, and afterwards to displace him on preconcerted grounds, that it is necessary his full correspondence with and concerning the various parties mentioned in this petition, and also his memoranda of the several circumstances as they have occurred, with marginal notes on such papers (in order to direct attention to coincidences and to corroborating facts), should be submitted to your Honourable House.

222. That when such correspondence and papers are before the Members of your Honourable House, they will open concurrent matters to their notice which have materially affected the subject thus brought before them by this petition.

223. That, as by charters and statutes relating to the Duchy of Lancaster, the Government are specially precluded from any interference in the duchy business, it is not competent for your petitioner to appeal to the Ministry to take part in any remedial measure in this matter.*

224. That as Her Majesty, by her Royal Assent to the Act passed in the first and second years of her reign, consented to the accounts of the duchy being submitted to Parliament, your petitioner has addressed this petition to your Honourable House in support of Her Majesty's interests, and in seeking justice for the damage he has sustained in his endeavours honestly to serve the Sovereign.

And your petitioner therefore prays, that your Honourable House will appoint a Select Committee to inquire into the statements herein set forth.

And your Petitioner will ever pray.

Francis Robert Bertolacci.

19 May 1857.

* *Vide* 1 Henry IV. (14 October 1399) two Acts; 2 Henry V. (19 November 1414); 1 Edward IV. 1); 1 Edward IV. (4 November 1461); 1 Henry VII. (7 November 1485).

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A.

Access to Minutes:

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2. *Statement on the part of the Duchy.*
3. *Conclusions of the Committee.*

1. *Complaint hereon by the Petitioner:*

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I. *General Statement of the Petitioner:*

1. Reasons assigned for the non-completion of the Audit for 1853 and 1854; undue Obstacles to the Progress thereof.
2. Objections to the System on which the Accounts are kept.
3. Occurrence of Errors in the Accounts.

II. *Statement on the part of the Duchy:*

1. Blame attributed to Mr. Bertolacci in regard to the non-completion of the Audit; inconvenience consequent thereon.
2. Explanation relative to the System of keeping the Accounts.
3. Explanation relative to the occurrence of certain Errors.
4. Practice previously to 1854, not to complete the Audit of the Accounts before Presentation to Parliament.

III. *Conclusions of the Committee.*

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Evidence relative to the circumstances connected with witness's appointment as auditor, 482 *et seq.*——From the year 1847 to March 1854 witness's services had been

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lent by the Board of Ordnance to the Treasury, and he was employed in connexion with the Irish Reproductive Loan Fund, 482——On the termination of these services, witness addressed a memorial to Mr. Gladstone, then Chancellor of the Exchequer, and subsequently had an interview with Mr. Gladstone's private secretary relative to some appointment better than his clerkship in the Ordnance being conferred upon him in consideration of his past services, *ib.*

Communication between witness and Mr. Stephenson, of the Treasury, previous to his appointment, 482——Interview eventually of witness with Mr. Strutt, on the 8th May, when the appointment of auditor, at a salary of 200 *l.* a year, was given to him, 482, 483——Statement showing that the appointment was given on the ground of past public services, 483–486——It was understood that he was to hold the office conjointly with that of clerk in the Ordnance, 487, 488.

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Upon entering upon the office of auditor, witness saw that by remodelling the whole system of the accounts of the duchy, the duties of the auditor would be much facilitated, 513–515——Letter from witness to Lord Granville, on the 1st December 1854, showing the importance of time being afforded without delay for auditing the accounts, 515——Reply of Lord Granville, on the 4th December, stating the opinion of Sir C. Trevelyan that it was useless to apply to the Ordnance for a further leave of absence for witness, *ib.*——Inaccuracy of the term "leave of absence," as applied to witness when discharging the duties before alluded to at the Treasury; important and complicated nature of these duties, 515. 519–521.

Interview between witness and Lord Granville on the 16th December 1854, when the latter said he had seen Mr. Monsell, who stated that it was not possible to spare witness from his work at the Ordnance-office, 515——Remarks by Lord Granville at this interview, relative to witness withdrawing a statement that he would not be responsible unless leave of absence were afforded him, *ib.*——Explanation by witness to Lord Granville on the same occasion in regard to several matters which it was important should be inquired into, *ib.*

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Unwillingness displayed by witness to assent to any curtailment of his functions, or to draw any draft instructions for himself: letter to Lord Granville on this subject, dated 27th December 1854; 527-531——Letter from Lord Granville to witness on the 18th January 1855, enclosing the draft instructions before referred to, and asking witness for his observations thereupon, 531-533——Further reference to the exceptions taken in witness's observations to the restrictions imposed by these instructions upon the office of auditor, 534.

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Seventh Examination.]—Mention generally of sundry matters to be considered in conjunction with General Fox's letter of the 9th February, in regard to the non-rendering of the accounts to witness, 559——Reply of witness on the 10th February to General Fox's letter of the preceding day; remarks therein on the question of witness giving up the account for 1853 before he received that for 1854; 560——Further letter from General Fox on the 14th February, requiring witness to return the account for 1853, and declining to hold further direct communication with him, 561——Explanation as to witness having in his petition described the foregoing letter as "not only uncourteous, but most offensive and overbearing," &c., 562-575.

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Letter received by witness from the clerk of the council on the 16th February 1855, requesting an immediate return of the Receiver-general's account for 1853; 590, 591——Reply of witness on the same day to the foregoing; question therein whether Sir Francis Baring had accepted the office of Chancellor of the duchy, 592——Mention of officers responsible to witness, as auditor, under his patent, 593.

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Correspondence between witness and Mr. Ellis, the attorney-general of the duchy, in February 1855, with reference to witness's power in regard to the rendering of the accounts; evasion by Mr. Ellis of the questions put to him hereon, 594–599. 603——Duty of witness, as auditor, to examine into the sufficiency of the security bonds entered into by or on behalf of the officers of the duchy; curtailment of this duty by Lord Granville, 600–602. 604.

Further reference to the draft instructions and the final instructions, as having been drawn up in the Duchy Office, with the assistance of the Audit Office; reason why the latter office was not competent to define these instructions, 605–609——Witness delivers in the draft instructions, and his remarks thereon, together with the final instructions, and the several letters which passed on the subject, 609——Reference to witness's letter to Lord Granville on the 6th March 1855, as the last communication with him, 610–612.

Lord Harrowby's appointment as Chancellor was on the 31st March 1855; 613——Letter from witness to Lord Harrowby, on the 18th April, with reference to the non-rendering of the Receiver-general's account for 1854; 613——Letter from Lord Harrowby, on the 4th May, reviewing in detail the past proceedings of witness as auditor, and concluding by an intimation that he had come to a determination to appoint an auditor in place of witness, *ib.*

Remarks upon passages in Lord Harrowby's letter in regard to the decision that witness should not have a seat at the council, 613. 625——Remarks upon a statement in regard to witness's retention of the Receiver-general's account for 1854; 613——Remarks upon a statement charging witness with the delay in the preparation of the accounts for the Treasury, 613——Remarks upon a statement in regard to the error of 50*l.* in the Receiver-general's account for 1852; *ib.*——Remarks relative to the refusal of the Receiver-general's bankers to supply witness with information, *ib.*——Remarks upon a statement in the letter in regard to the "incidental" account, to which witness had before objected, *ib.*

Remarks upon a passage in Lord Harrowby's letter in regard to witness's views upon the question of signatures to vouchers, 613——Remarks upon a statement in regard to witness having been asked to affix his signature to the bill relative to the Salford property in the usual way, *ib.*——Remarks upon a statement that witness had persevered in retaining and acting upon his own opinion, in opposition to the court, fortified by that of the law officers of the duchy, 613. 625——General comment, in conclusion, upon Lord Harrowby's letter, and his resolution to displace witness, 613.

Statement as to Lord Harrowby having availed himself of the earliest opportunity to dismiss witness, at the suggestion of General Fox, 613–615——Evidence relative to a bill introduced by Lord Harrowby into the House of Lords on the 12th June 1855, and hurried through both houses, relative to the power of the Chancellor and council to buy and sell property, &c.; inference, from the introduction of this bill, that Lord Harrowby, when he alleged that witness's opinion of the constitution of the council was wrong, believed it to be right, 613. 626–640.

Witness considers the letter of Lord Harrowby to have emanated from himself, independently of the council, 616——Further statement that the delay in the non-rendering of the Receiver-general's accounts for 1854 was not attributable to witness, 617–622——Remarks on a statement by Mr. Gooch as to the account for 1854 having been "closed" on the 22d February 1855; 617–621——Explanation relative to a letter from witness to Mr. John Abel Smith on the 16th May 1855; statement in this letter commenting on the course adopted by the duchy officials with respect to the non-rendering of the Receiver-general's accounts to witness, and the error of 50*l.* in the account for 1852; 622–624.

Letter from witness to Lord Harrowby on the 9th May 1855, stating that as there was no charge of misconduct against him as auditor there was no ground for displacing him; that he did not vacate his office; and that Lord Harrowby could not abrogate his patent, 641——The fact of a bill having been transmitted to witness on the 18th May for his signature proves that he did not vacate the office, 642——Witness considers that he has not been legally displaced, 643——Reference to the opinion of Messrs. Freshfield in May 1855 that witness's patent or appointment could not be taken from him without the Sign Manual of the Queen, *ib.*——Witness's last visit to the duchy office was on the 11th August 1855; 644——He was informed by Lord Harrowby by letter on the 11th August, that steps had been taken to supersede his appointment, and that Mr. Hawker, of the Audit Office, had been appointed in his stead, 645.

Further evidence relative to the duchy account with Lord Granville; explanation as to the state of the account for the year ending Michaelmas 1853; 646–653.

[Eighth Examination.]—Correction of portion of former evidence (Q. 415–419) relative to the account with Lord Granville, 654——Witness does not make any imputation of misrepresentation in regard to the account, 655——Further reference to the

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desire expressed by General Fox in his letter of the 9th February, that witness should be superseded, 656.

Interview of witness with Lord Harrowby at the duchy office on the 16th May 1855, in order to discuss about the accounts, 657——At this interview witness explained to Lord Harrowby the irregular mode in which the accounts had been kept and passed, and, at Lord Harrowby's suggestion, subsequently wrote down the several questions raised, in order that he might consider them, 658——Instances of some of the questions drawn up by witness, and of the replies thereto; reference also to a document containing all the questions and replies, together with notes by witness on such replies, 658, 659.

At the interview of the 16th May witness asked Lord Harrowby to order the account for 1854 to be rendered to him before parting with that for 1853, but he declined to do so, 660——On the 24th May Lord Harrowby informed witness by letter that he should have access to certain accounts at the office which he required to examine, *ib.*——Reference to memoranda respectively by witness and Mr. Gooch in regard to the delay in rendering the accounts, *ib.*

Comment on the character of the replies to the several questions laid by witness before Lord Harrowby, 661, 662——Further evidence relative to the refusal of the Receiver-general's bankers, Messrs. Coutts & Co., to give witness certain information which, as auditor, he asked for; contravention thereby of the terms of witness's patent, 663–674——Witness reads the patent, 664——Subsequently to the refusal by the bankers of information, witness was precluded by a statement of Lord Harrowby from further similar inquiries, 669. 673, 674.

Delay before the cash account for 1854 was returned to witness after he had given it it up in accordance with Lord Harrowby's letter of 4th May 1855; 675, 676——Correspondence between the Parliamentary clerk of the Treasury and witness in June 1855; statement by witness as to the care and time necessary in auditing the accounts, 677——Communication between witness and Mr. Monsell, through officers of the department, between the 18th and 21st June, relative to witness obtaining leave of absence; comment upon the course pursued by Mr. Monsell at this period in reducing the regular leave of absence from six weeks to four weeks, and then suddenly to three weeks, witness being the first to whom the reduction applied, 678–686.

Statement as to witness having been transferred, in June, from his own department in the Ordnance to another department, in which the work required him to stay extra hours; he was re-transferred when the office of auditor was taken from him in August, 687–690——Witness devoted the remainder of his leave from the Ordnance-office, and several extra hours daily, to the audit of the duchy accounts, 687——Want of facility in the examination of the accounts on the occasion of the absence of Mr. Gooch from the office in June, 691.

In consequence of the several impediments to witness's audit of the accounts, he decided upon appointing a deputy (as allowed by his patent), and wrote to Mr. John Abel Smith on the subject, who recommended Mr. Coleman, 692——Qualifications of Mr. Coleman for the office, *ib.*——On the 18th June, witness introduced Mr. Coleman, as his deputy, to Mr. Gooch, and explained the authority under which he appointed him, but Mr. Gooch refused to produce the books to him, *ib.*——Witness subsequently communicated with Lord Harrowby, who, however, refused permission to the appointment of a deputy, 692, 693.

Statement in explanation of a paragraph in the petition, complaining of offensive language and behaviour on the part of Mr. Gooch towards witness, 694–701——Letter and enclosure therein, laid by witness before Lord Harrowby on the 5th July 1855, relative to Mr. Gooch's conduct; no notice was taken of this communication, 694–697. 700. 702——Illustration of the harsh opinion formed of witness by General Fox, 701——Circumstance of witness having at first been refused the use of a separate room at the Duchy-office, 703.

Further communication between the Parliamentary clerk of the Treasury and witness on the 6th July; enumeration by witness of the several causes which prevented a completion of the audit up to that period, 704——Reason assigned by Mr. Wilson, in the House of Commons, on the 6th July, for the non-presentation of the duchy accounts, 705——Reference to two notes received by witness from Lord Harrowby, on the 25th July, relative to the progress made in the examination of the accounts, 706——Reply of witness to Lord Harrowby on the 26th July; explanation therein of the progress made, and of some of the impediments to a further progress; this letter was not noticed, 707, 708.

Witness was at work at the Duchy-office up to a late hour on the evening of 10th August, the day before he was superseded, 709——Letter from Lord Harrowby to witness, dated 11th August 1855, referring to the backward state of the audit of the accounts, and stating that steps had been taken for appointing Mr. Hawker, of the Audit-office, as witness's successor, *ib.*——Mr. Hawker is a nephew of General Fox's wife, 710——Steps had been taken to supersede witness long before he was aware of the fact, 711.

Grounds

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Grounds for the statement in paragraph 199 of the petition; belief that when Lord Lord Harrowby wrote a certain letter to Mr. John Abel Smith in May 1855, he had in contemplation the appointment of Mr. Hawker, 712-720——Statement as to the part taken by General Fox in procuring Mr. Hawker's appointment, 716-720——Further statement as to the accounts for 1852 having been kept open on account of the arrears due by Lord Granville, 721, 722.

Reference to a letter from witness to Lord Harrowby on the 13th August, in which he protests against the illegality and injustice of the proceeding depriving him of the auditorship, 723——Letter from Lord Harrowby to witness on the 17th August, denying that he had determined in May to supersede witness, and doubting the fact of the appointment having been given as a return for public services, 724.

Circumstance of there having been a considerable increase in the receipts of the duchy since the period when witness was appointed auditor, 725-727——Particulars as to the remuneration of the clerk of the council, and the amended practice effected by witness of stating the same intelligibly in the accounts laid before Parliament, 728, 729.

Witness further states that he has been twenty-one years in the public service, 730——Services of witness's grandfather and father under the British Government, 730, 731——Witness was born in this country, 732——As regards Mr. Hawker, witness states that he has no unfriendly feeling towards him, and believes him to be a perfectly honourable person, *ib.*

[Ninth Examination.] Authority of the late Mr. James Freshfield, upon which witness has stated in his petition, that a certain action tried at York, cost the duchy 10,000 *l.*; Mr. Freshfield was alive when this statement was inserted in the petition, 863.

[Tenth Examination.] Reference to the Act of the 1st of Edward the Fourth, which incorporated the duchy, and to the Act of the 2d of Henry the Fifth, as specifying different functions for the Chancellor and for the council, 1600-1602—— Reference to all subsequent Acts as with one exception, that of the 48th George the Third, c. 73, using the terms Chancellor and council, 1602.

Witness delivers in the correspondence between himself and Mr. Gladstone, as explaining the grounds upon which he was appointed auditor of the duchy, 1603.

Bertollacci, Francis Robert. Although high-minded, honest, and of unblemished character, Mr. Bertolacci seemed, as regards the office of auditor, to have been a person of one idea, namely, that the office was one of great dignity and importance, and that all other objects must be sacrificed to it, *Right Honourable Earl of Harrowby* 1292.

The Committee conclude that the presentation of the petition should not prejudice the present position or future prospects of Mr. Bertolacci, still less ought it to derogate from former claims, *Rep. p.* x——Throughout the whole period of Mr. Bertolacci's connexion with the duchy office, he acted *bonâ fide* according to the sincere conviction that in his person the privileges of the offices of auditor had been infringed, *ib.*

Bills for Grants in Fee:

1. *Practice formerly in preparing and signing Bills of Sale.*
2. *Statement of Mr. Bertolacci in Explanation and Disapproval of the practice during his Auditorship.*
3. *Bills actually signed by Mr. Bertolacci.*
4. *Views of the Officers of the Duchy in opposition to those of Mr. Bertolacci.*

1. *Practice formerly in preparing and signing Bills of Sale:*

Reference to a statement by the clerk of the records of the duchy, as showing the practice when the bills were signed by the clerk of the council, *Bertolacci* 77-84——Form of "particular" gone through when the clerk of the council signed the bills of sale, *ib.* 79-81. 289. 391, 392.

Practice in regard to the form of a "particular" during Mr. Lockhart's auditorship, *Ellis* 811, 812. 817-819——Minute made on the 6th August 1844, during the Chancellorship of Lord Granville Somerset, abolishing the existing forms in regard to bills of sales, and substituting a minute of council deciding the forms; explanation thereon, *Danvers* 906-910. 922-927——Explanation as to the object of the form of "particular" drawn up by the auditor, *Danvers* 906. 917, 918. 1028; *Hardy* 1491, 1492. 1498——The practice of a "particular" did not involve any actual inquiry by the auditor into the valuation, *Danvers* 916, 917. 922-924——Greater responsibility thrown upon the Chancellor by the minute of August 1844, abolishing the form of a "particular," *ib.* 925-927——Practice previously to 1844, whereby the attorney-general of the duchy and the clerk of the council signed bills of sale, *Hardy* 1480-1482.

Observations by Mr. Hardy, clerk of the records of the duchy, on his researches into the origin of the auditor's signature to grants in fee, *App. p.* 260.

Particular, dated 28th July 1843, preparatory to a grant in fee to Mr. George Herring, *App. p.* 279.

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BILLS FOR GRANTS IN FEE—continued.

2. *Statement of Mr. Bertolacci in Explanation and Disapproval of the practice during his Auditorship:*

Witness has been asked by the clerk of the council to affix his name with the word "auditor," after it to the bills for the sale of property, and to omit the word "auditor" in affixing his name to the certificate accompanying each bill, *Bertolacci* 87–90——Matters recorded in the bill of sale, *ib.* 89——Object of the certificate attached to the bill of sale, *ib.*

Statement relative to certain property which the Chancellor and council had agreed to sell by private contract, and the bills for the sale of which were placed before witness for his signature, though he knew nothing of the particulars of sale, and had not seen the minutes of council thereupon, *Bertolacci* 91–107——Witness reads the letter received by him from the clerk of the council, dated 8th June 1854, enclosing for his signature three bills for grants in fee, *ib.* 110——Comment upon this letter in regard to the omission of the word "auditor," in signing the certificates attached to the bills of sale, *ib.*

After the receipt of the letter of the 8th June 1854, witness went to the duchy office in order to see the minutes of council, authorising the preparation of the bills in question, but found that the order of council had not received the signature of the Chancellor, *Bertolacci* 111. 113——Remark of Mr. Danvers, that witness would throw impediments in the way of business if he required to see the authority of the court before attaching his signature to the bills of sale, *ib.* 111——Comment on witness's letter to Mr. Strutt of the 9th June 1854, on the foregoing remark of Mr. Danvers, *ib.* 113——Letter from witness to Mr. Strutt, dated 9th June 1854, with reference to the three bills of sale enclosed in Mr. Danvers's letter of the 8th June, *ib.* 112, 113.

Statement by Mr. Danvers in a letter of 19th December, as to the auditor's signatures to bills of sales, and leases not being made obligatory by the will of the Chancellor and council, *Bertolacci* 279——Statement by Mr. Danvers in letters of 19th December 1854, and 30th January 1855, that the object of the auditor's signature to the bill is to show that the same is in accordance with the minute of the court, *ib.* 279, 280——Letter from witness to Mr. Danvers, dated 5th February 1855, in further reference to his being called upon to sign bills of sale, and stating his unwillingness to do so, *ib.* 282.

Lord Harrowby who succeeded Lord Granville as Chancellor, also required witness to sign bills of sale without due investigation previously, *Bertolacci* 318——Different opinions of witness and Lord Harrowby in regard to the object of the auditor's signature further adverted to, *ib.* 368–373——Witness considers that the auditor's signature to the bill was as an advising member of the council, *ib.* 369——And that his signature to the certificate was to certify that the bill of sale had been passed by the council, *ib.*

Communication on the 18th May 1855 between the clerk of the council and witness, in regard to witness's signature to two bills for grants of land in Salford and Pendleton; note attached by witness to his signature to those bills, and explanation thereon, *Bertolacci* 371–373——Statement as to the clerk of the council having informed witness on the 26th May, that it had been decided he should no longer sign the bills themselves, but merely the certificates at the foot of the bills, and to add the word "auditor" in the latter case, *ib.* 374–379——When witness's signature to the bills was ordered to be discontinued by Lord Harrowby, it was also ordered that the clerk of the council in lieu of the auditor should sign them; objectionable effect of this change, *ib.* 391, 392.

Remarks in written statement of Mr. Bertolacci, dated 10th March 1855, with reference to his being called upon to sign bills and leases without previous due inquiry into the interests involved, *App. p.* 245–254.

Question raised by Mr. Bertolacci on the 16th May 1855, relative to his signing bills preparatory to grants in fee; answer thereto as copied from letter by Mr. Danvers; and note in reply by Mr. Bertolacci, *App. p.* 258, 259.

Allegations in the petition, condemnatory to the practice required in regard to the signature of the auditor to bills, *App. p.* 281, *et seq.*

3. *Bills actually signed by Mr. Bertolacci:*

Witness delivers in all bills preparatory to grants in fee of the duchy property, which bear the signature of Mr. Bertolacci, *Danvers* 108, 109, and *App. p.* 264. 280.

Reference to certain bills of sale, and to the dates at which signed by witness; probability of his having signed them in the interval between the 4th August and the end of November, during which time he had not free access to the minutes, *Bertolacci* 189–191. 223. 249–252——Before Mr. Bertolacci had free access to the minutes, he was probably called upon to sign some bills and leases, *Danvers* 919.

4. *Views of the Officers of the Duchy in Opposition to those of Mr. Bertolacci:*

Change in the practice of signing bills and leases during Mr. Bertolacci's auditorship; this did not abridge any of his powers, *Danvers* 949–950——As regards the signature of Mr.

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Bills for Grants in Fee—continued.

4. *Views of the Officers of the Duchy, &c.*—continued.

Mr. Bertolacci to the bills of sale for land in Salford and Pendleton, it was considered merely as a certificate that the bills were in conformity with the orders of the court, *Danvers* 1024–1028——Reason why Mr. Bertolacci was not required to repeat the word "auditor" in signing the certificate at the bottom of the bill of sale, *ib.* 1182, 1183——Remarks on Mr. Bertolacci's statement as to the effect of witness's letter of the 8th June 1854, being to mislead in regard to the object of the auditor's signature, *ib.* 1193–1196.

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1. *Limit to the Power of the Chancellor apart from the Council.*
2. *Evidence to a contrary purport: Supreme Power of the Chancellor.*

1. *Limit to the Power of the Chancellor apart from the Council:*

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Deductions from Rental. Nature of the deductions from the gross receipts, *Gooch* 1449–1451——The returns to Parliament do not contain a detail of the gross receipts or of the deductions, *ib.* 1452–1454.

Defalcations. Defalcations of late years in several departments of the public service adverted to in connexion with witness's refusal to be bound by rules restricting his functions, *Bertolacci* 481——Sundry instances of defalcation on the part of public officials further adverted to, as showing the importance of the auditor's functions being unrestricted, *ib.* 534, 535.

Deputy Auditor. In consequence of the several impediments to witness's audit of the accounts, he decided upon appointing a deputy (as allowed by his patent), and on the 13th June 1855, wrote to Mr. John Abel Smith on the subject, who recommended Mr. Coleman, *Bertolacci* 692——Qualifications of Mr. Coleman for the office, *ib.* 692——On the 18th June, witness introduced Mr. Coleman as his deputy to Mr. Gooch, and explained the authority under which he appointed him, but Mr. Gooch refused to produce the books, *ib.* 692——Witness subsequently communicated with Lord Harrowby, who, however, refused permission to the appointment of a deputy, *ib.* 692 693.

Power of the auditor under his patent to appoint a deputy, *Ellis* 827–830——Authority of the Chancellor to prevent the employment of a depnty if disadvantageous to the duchy, *ib.* 831, 832——Save in cases of illness or necessary absence, auditors or other patent officers have not appointed deputies, *Danvers* 1167–1169——Belief as to the appointment of a deputy by Mr. Lockhart when incapacitated through illness, *ib.* 1179–1181.

Grounds upon which witness refused to allow Mr. Bertolacci to appoint a deputy, *Right Hon. Earl of Harrowby* 1296, 1297. 1304——Explanation as to witness having on one occasion been appointed deputy for Mr. Lockhart, *Danvers* 1475, 1476——Explanation of the circumstances under which witness declined to produce the accounts to a person introduced by Mr. Bertolacci as his deputy, *Gooch* 1505–1514.

Allegations in the petition in regard to the endeavour of the petitioner to get the work done by deputy, and the objections raised to the appointment of Mr. Coleman as his deputy, *App. p.* 297–300.

As regards the employment of Mr. Coleman, as deputy, without the previous sanction of the Chancellor, it was contrary to precedent to introduce a deputy auditor, except in cases of illness of the principal, *Rep. p.* viii.

Deputy-Receiver-General. Want of facility in the examination of the accounts on the occasion of the absence of Mr. Gooch from the office in June 1855, *Bertolacci* 691——Statement in explanation of a paragraph in the petition, complaining of offensive language and behaviour on the part of Mr. Gooch towards witness, *ib.* 694–701——Letter and enclosure therein laid by witness before Lord Harrowby on the 5th July 1855 relative to Mr. Gooch's conduct; no notice was taken of this communication, *ib.* 694–697. 700–702.

Report, 1857—*continued.*

Deputy Receiver-General—continued.

Advantageous arrangement by which Mr. Gooch acts as deputy for the Receiver-general, and collects the rents in the country, besides being the first clerk in the duchy, *Danvers* 1101. 1169, 1170——Business done for witness by Mr. Gooch, who receives from witness an allowance for the same, *Fox* 1323——Testimony to the general good conduct and demeanour of Mr. Gooch, *Danvers* 1368; *Hardy* 1503.

Witness has been first clerk in the duchy office for 20 years, and has filled the office of deputy to the Receiver-general for 16 years; has been 30 years in the office, *Gooch* 1387-1389——Receives 450 *l.* a year as first clerk, and 100 *l.* a year from General Fox as his deputy, *ib.* 1390, 1391——Duties of witness as deputy, *ib.* 1400——Witness pays about 20,000 *l.* a year in to the bankers on account of the Receiver-general, the gross receipts by him being 23,000 *l.* or 24,000 *l.*, *ib.* 1446-1448.

Denial of a charge by Mr. Bertolacci as to witness having acted in an offensive and domineering manner towards him; memorandum read by witness on this subject, *Gooch* 1515, 1516——Comment upon the behaviour of Mr. Bertolacci towards witness, *ib.* 1515, 1516——Witness showed every anxiety to assist Mr. Bertolacci when he was appointed auditor, *ib.* 1515, 1516.

Allegations in the petition in regard to Mr. Gooch having conducted himself with incivility, &c., towards the petitioner in the discharge of his duties as auditor, *App. p.* 300-302.

Remarks by the Committee relative to Mr. Bertolacci's complaint of the conduct of Mr. Gooch and others, *Rep. p.* ix.

See also *Accounts and Audit of Accounts.*

Draft Instructions for Auditor. See *Instructions for Auditor.*

Duties or Functions of Auditor. Belief that in the mode of appointment of witness an unfair advantage was taken of his ignorance of the constitution of the duchy with the view of curtailing his powers as auditor, *Bertolacci* 41, 42. 69——Reference to the ancient charters of the duchy, and to several Acts in the reign of George the Third, as prohibiting the interference of the Government in its affairs, and confiding the management to the council, including the auditor, *ib.* 43-50——Reference to a letter from the clerk of the records of the duchy, dated 22d December 1854, stating that he cannot find anything which prescribes or curtails the duties of the auditor, *ib.* 55-58——Reference to a statement of the clerk of the records, dated 31st January 1855, relative to the functions of the auditor in regard to the sale of duchy property, *ib.* 77-86, and *App. p.* 260.

On the 17th July 1854, and again on the 24th July, witness wrote to Lord Granville, asking for a private interview; no notice was taken of these letters till the 28th July, when he received a letter from the clerk of the council, appointing a meeting on the following day, *Bertolacci* 175-182——Points explained by witness to Lord Granville on the 29th July in regard to the impediment to the proper exercise of his office, *ib.* 183——By Lord Granville's desire witness drew up a statement in detail of what passed on the 29th July; this statement was submitted in a letter on the 4th August; this letter and statement read to the Committee, *ib.* 184, 185.

Respect in which, as regards witness's duties, a letter from Lord Harrowby on the 4th May 1855, is inconsistent with letters of Mr. Danvers on the 20th and 21st of November 1854, *Bertolacci* 288, 289——The letters of 20th and 21st November called upon witness to perform duties of a deliberative character, *ib.* 290.

On the 10th March witness transmitted to Lord Granville an elaborate statement relative to the origin and constitution of the duchy, and to the Acts of Parliament by which it was affected; sundry points in this statement adverted to with reference to the proper functions of witness as auditor, *Bertolacci* 310-315——No notice was taken by Lord Granville of witness's statement, dated the 10th March, *ib.* 316, 317.

Duties generally of the auditor, *Ellis* 810——Difficulties experienced by witness immediately on his appointment as Chancellor in regard to Mr. Bertolacci, who much misunderstood his position as auditor, *Right Honourable Earl of Harrowby* 1292——Absence of inconsistency as to the functions of Mr. Bertolacci between witness's letters of 20th and 21st November 1854 relative to enfranchisements, and Lord Harrowby's letter of 4th May 1855, *Danvers* 1363——Mr. Bertolacci was never called upon to take part in the deliberative department of the duchy, *ib.* 1363. 1366-1368.

Draft instructions for the auditor, and remarks of Mr. Bertolacci thereon, *App. p.* 235-241——Final instructions, as enclosed in letter from Lord Granville, dated 2 March 1855, *ib.* 242-244.

Letter from Mr. Bertolacci to Earl Granville, dated 10 March 1855; and enclosure therein considering in detail the duties and functions of the auditor, and the impediments thrown in the way of the office, in the person of Mr. Bertolacci, *App. p.* 245-254.

The

Report, 1857—*continued.*

Duties or Functions of Auditor—continued.

The Committee consider that Mr. Bertolacci misunderstood the nature of his duties, but that this was partly owing to the want of a clear definition of his duties, at the outset, *Rep. p.* vii. ix.

See also *Access to Minutes.* *Accounts and Audit of Accounts.* *Act 9 Geo. 3, c. 45.* *Bankers' Pass-book.* *Bills for Grants in Fee.* *Chancellor of the Duchy.* *Coke's Institutes.* *Defalcations.* *Deputy Auditor.* *Exclusion from Council.* *Instructions for Auditor.* *Leave of Absence (from Orbnance Office).* *Lockhart, John Gibson.* *Ordnance Office.* *Patent.* *Qualifications of Mr. Bertolacci.* *Responsibility.* *Security Bonds.* *Valuations.*

E.

Ellis, Thomas Flower. (Analysis of his Evidence.)—Has been Attorney-general of the Duchy of Lancaster since the 9th May 1839; 733, 734. 751——Duties of the office, 735——The emoluments consist of a salary of 100 *l.* a year, less land tax, and of the commutation fees, which are between 80 *l.* and 90 *l.* a year, 735, 736. 750.

Explanation relative to some correspondence between Mr. Bertolacci and witness, in February 1855, relative to witness's opinion as to the right of the former to require the accounts to be rendered to him: denial of the charge that witness's conduct in the matter was evasive, 736–749——Reference to an opinion given on the 14th April 1855, by witness and Mr. James, Vice-chancellor of the County Palatine, to the effect that Mr. Bertolacci had not established any right to claim a seat at the council, and that his exclusion from the council did not interfere with the discharge of his duties as auditor, 737–742.

Opinion that the auditor has not a right to sit at the council, and that, strictly speaking, no one has a right to a seat there, unless summoned by the Chancellor, 752–796——Members of the council during the auditorship of Mr. Lockhart; the auditor was always summoned, 755–760——Names of the council appointed by Lord Campbell, 758, 759——Practice since the resignation of Mr. Lockhart not to summon the auditor to the council; composition of the council since that period, 761–766——Grounds for the opinion that the members of council are those who are summoned by the Chancellor, and that the Chancellor and council may mean the Chancellor sitting alone, 768–790——Probable reasons why Mr. Bertolacci was not summoned to the council, 791. 796——There is only one passage in the oath of office taken by Mr. Bertolacci, at all implying that he had a right to attend the council, 792, 793——There is nothing in the patent which infers a right to sit at the council, 795, 796.

Duty of witness to vouch that the leases granted by the duchy are in the proper form, 797, 798——Duty of witness in regard to the form of bills of sale, 799–802——Opinion that the auditor of the duchy cannot have anything whatever to do with the prices obtained, or the valuation of the property sold, 803–813——Alteration in some of the forms in regard to the signing of bills, &c. since the auditorship of Mr. Lockhart, 805. 811, 812. 817–819—— Duty of the auditor to sign any bill laid before him, if it be in accordance with the minute of council, even though he knew it involved a misapplication of the property, 806–809. 820——Duties generally of the auditor, 810.

Power of the Chancellor to act against the advice of the council, 814–816——Reference to a representation by Mr. Bertolacci in regard to the form of the duchy leases; report on the subject by witness and Mr. James, dated 1st December 1854; 821. 848——With regard to the bills having reference to escheats, Mr. Danvers, as trustee, had no discretion whatever in the matter, 822–826——Power of the auditor under his patent to appoint a deputy, 827–830——Authority of the Chancellor to prevent the employment of a deputy, if disadvantageous to the duchy, 831, 832——Tenure of the office of auditor during pleasure, and not for life, the Chancellor having power to supersede the auditor and appoint a successor, 833–847.

Remarks relative to the "court" of the duchy, as distinguished from the council; the officers of the equity court cannot be understood as the members of council, 849—— Further reference to the appointment of a council by Lord Campbell, *ib.*——Explanation relative to the Act 18 & 19 Vict., c. 58; it was passed for the sake of conferring additional powers in buying and selling land, the want of which powers had been felt very inconvenient, 849, 850. 859–861.

Correction of a statement by Mr. Bertolacci, as to the duchy being a palatinate, 850——Remarks on a statement in the petition that a certain action at law cost the duchy 10,000 *l.*, and might have been avoided by a conference between two Cabinet Ministers, if it could not have been settled by Act of Parliament; inaccuracy of this statement, both as regards the cost of the action and the power of avoiding it to the advantage of the duchy, 850–858——Remarks on the circumstance of the auditor of the court of wards and liveries having been a judge of the court, 862.

[Second Examination.]—The action alluded to by Mr. Bertolacci (Q. 863) as having been tried at York was, most probably, a different case from that named in the petition, but did not cost the duchy anything like 10,000 *l.*; 864–868.

Report, 1857—*continued.*

Ellis, Thomas Flower. (Analysis of his Evidence)—*continued.*

[Third Examination.]—Correction of some points in witness's former evidence, 1273——Correction with reference to the members of council appointed by Lord Campbell, *ib.*——In assembling a council, the general practice is to summon all the members, *ib.*——The oath taken by Mr. Bertolacci implied his presence at the council in the same way as the other members, *ib.*——As regards the duty of the auditor to sign all bills placed before him, it would rather be his duty, in a case of fraud, to resign his office, than to sign the bill, *ib.*——Further statement as to the power of the Chancellor to have displaced Mr. Bertolacci as holding office during pleasure, *ib.*

Enfranchisements. Remarks in witness's letter to Mr. Danvers, of 20 November 1854, taking exception to the course of proceeding in regard to enfranchisements, *Bertolacci* 271. 288——Letters from Mr. Danvers to witness, on the 20th and 21st November 1854, relative to contemplated suggestions by witness on the question of the enfranchisement of copyholds, *ib.* 288.

Reason why enfranchisements were not always brought before the Chancellor and council, *Danvers* 1036——Advantage in enfranchisements being brought before the duchy court, *ib.* 1036, 1037——Practice in regard to the fines for enfranchisements, *ib.* 1037–1042——Explanation as to the enfranchisements having taken place under the small seal of the duchy, *ib.* 1043–1051.

Enrolments, Book of. Practice in regard to entries in the auditor's book of enrolments, *Danvers* 1211, 1212.

Escheated Property. On the 5th July 1855, witness was required to sign a bill, constituting Mr. Danvers sole trustee for certain property which had escheated to the Queen in right of the Duchy, *Bertolacci* 321–323——Exception taken to the practice in the foregoing matter, on the ground of the property being placed under the management of one individual, *ib.* 324–338.

With regard to the bills having reference to escheats, Mr. Danvers, as trustee, had no discretion whatever in the matter, *Ellis* 822–826——Explanation as regards the distribution of grants of escheated property, to the effect that witness, as trustee, had no discretion therein, *Danvers* 990–996——Check upon improper conduct in the matter of escheats, *ib.* 990–996. 1137, 1138——Inaccuracy of some of Mr. Bertolacci's evidence relative to escheated property, *ib.* 1363, 1364.

Grant, dated 14 July 1855, of freehold house and garden, and other premises in Wavertree, escheated on the death of Julius Focke, to F. D. Danvers in trust, *App. p.* 264.

Allegations in the petition as to the petitioner having been called upon to sign bills constituting the clerk of the council sole trustee, and as to the inexpediency thereof, *App. p.* 285, 286.

The practice complained of by Mr. Bertolacci appears to be the most obvious and easy way of securing a fair distribution of the property, *Rep. p.* vii——It was not in the power of the clerk of the council, as trustee, to divert or misappropriate any portion of the property, *ib.*

Evans, Captain George, R.N. (Analysis of his Evidence).—Is acting conservator of the River Mersey, 969——Reference to certain property of the duchy on the borders of the Mersey as having been sold for its full value, or rather for much more than it was worth, 970–974.

Exclusion from Council:

1. *Complaint hereon by the Petitioner.*
2. *Statement on the Part of the Duchy.*
3. *Opinion of Sir Fitzroy Kelly.*
4. *Conclusions of the Committee.*

1. *Complaint hereon by the Petitioner:*

Previously to witness's appointment, the auditors were always members of the court or council, and had never been excluded therefrom; authority for this statement, *Bertolacci* 8 *et seq.*——Indefinite terms as regards witness's right as auditor to sit at the council, in which the appointment was offered to him by the Chancellor of the time, Mr. Strutt (now Lord Belper), *ib.* 19–23. 65–72——Witness knows that the auditor always did sit at the council, *ib.* 60, 61——The exclusion of the auditor from the council deprives him of the means of exercising any useful check upon the application of the property of the duchy, *ib.* 62. 73–76.

Remarks in a statement laid by witness before the Chancellor of the duchy on the 4th August 1854, relative to his exclusion from the council, *Bertolacci* 185——Witness did not hear that any notice by the council was taken of his statement on this point, *ib.* 195——Letter from Lord Granville to witness on 4 December 1854; statement thereon that the council had unanimously decided against the admission of witness to a seat at the council,

Exclusion from Council—continued.

1. *Complaint hereon by the Petitioner*—continued.

council, *Bertolacci* 197–199——Comment on the foregoing letter; circumstance of all preceding auditors having had seats at the council, *ib.* 198.

Further statement as to the auditor being one of the officers of the council, and not dependent on the will of the Chancellor, *Bertolacci* 300–304——Authorities for the conclusion that the auditor is one of the council further adverted to, *ib.* 300.

Remarks upon passages in Lord Harrowby's letter of 4 May 1855, in regard to the decision that witness should not have a seat at the council, *Bertolacci* 613. 625——Remarks upon a statement in the letter of 4 August, that witness had persevered in retaining and acting upon his own opinion in opposition to the court, fortified by that of the law officers of the duchy, *ib.* 613. 625.

Allegations in the petition as to the auditor having always had a seat at the council, and as to the impropriety of depriving the petitioner of such seat, *App. p.* 281 *et seq.*

2. *Statement on the Part of the Duchy:*

Reference to an opinion given on 14 April 1855 by witness and Mr. James, Vice-Chancellor of the County Palatine, to the effect that Mr. Bertolacci had not established any right to claim a seat at the council, and that his exclusion from the council did not interfere with the discharge of his duties as auditor, *Ellis* 737–742——Opinion that the auditor has not a right to sit at the council, and that strictly speaking, no one has a right to a seat there, unless summoned by the Chancellor, *Ellis* 752–796; *James* 873, 874——Reason why Mr. Bertolacci was excluded from the council, *Ellis* 791. 796; *James* 889. 892, 893.

Witness concurs in the opinion of the Attorney-general of the duchy, that Mr. Bertolacci had no right to sit at the council, *James* 871–873——Witness advised the Chancellor (then Mr. Strutt), that it was in his power to appoint an auditor without giving him a seat at the council; this advice had reference, in the first instance, to Mr. Bromley, *ib.* 887–891——The exclusion from the council could have had nothing to do with his efficiency as auditor, *ib.* 893.

Witness understood that Mr. Strutt was in doubt whether Mr. Bertolacci was a member of the council by virtue of his office, *Danvers* 899, 900——Minute of council daten 15 May 1854 relative to the swearing in of Mr. Bertolacci; this records the fact of Mr. Bertolacci having been informed that he was not to attend the council unless specially summoned thereunto, *ib.* 900–904——Reason for Mr. Bertolacci not having been admitted to the council, though there was nothing to keep secret, *ib.* 1131——Further statement opposed to the right of Mr. Bertolacci to a seat at the council, *ib.* 1182——The exclusion of Mr. Bertolacci from the council did not restrain his functions of check, *ib.* 1197, 1198.

Reasons for witness's conclusion that the new auditor should not be a member of council, but that he should have access to the council when necessary, *Right Hon. Lord Belper* 1225. 1239. 1246–1248——Witness clearly understood that there was no legal objection to the auditor not being a member of council, *ib.* 1225——Interview with Mr. Bertolacci before his appointment; witness then told him, not in indefinite terms as stated by him, that he was not to be a member of the council, and he accepted the office on that condition, though apparently dissatisfied with it, *ib.* 1226. 1244——As regards Mr. Bertolacci's exclusion from the council his presence there was in no respect necessary for the due performance of his duties, *ib.* 1240. 1246–1248——Circumstance of witness, after he had ceased to be Chancellor, having reminded Mr. Bertolacci that he had accepted the office on the condition of not being a member of council, *ib.* 1244, 1245——Minute of Mr. Bertolacci's appointment adverted to, *ib.* 1246.

Grounds upon which witness acted in deciding that it was inexpedient that Mr. Bertolacci should be a member of the council, *Right Hon Earl Granville* 1268.

Question constantly being raised by Mr. Bertolacci in regard to his not having a seat at the council; to which witness was assured he had no legal right, *Right Hon. Earl of Harrowby* 1292.

Remarks on the grounds upon which Mr. Bertolacci argues that the auditor was formerly a member of the council, *Danvers* 1363.

Opinion of Mr. Ellis and Mr. James, dated 14 April 1855, that the auditor has not established any right to claim a seat at the council, and that he is not, by not being admitted to such seat, deprived of any power necessary to discharge the duties of his office, *App. p.* 265.

3. *Opinion of Sir Fitzroy Kelly:*

Case submitted to Sir Fitzroy Kelly for his opinion, whether the Chancellor was legally empowered to deprive Mr. Bertolacci of his seat in the council, *App. p.* 265——Opinion of Sir Fitzroy Kelly, dated 27 July 1857, to the effect that the right of the auditor to sit and act as a member of the council depends altogether on usage, and that

Report, 1857—*continued.*

Exclusion from Council—continued.

3. *Opinion of Sir Fitzroy Kelly*—continued.

if the auditor has always sat and acted as a member of the council, it must be presumed he has done so of right, and cannot lawfully be excluded, *App. p.* 265.

4. *Conclusions of the Committee:*

Reference to the repeated opinion given by the law officers of the duchy, that Mr. Bertolacci had no right, by virtue of his office, to a seat and voice at the council, *Rep. p.* vi——Reference to the statement of Lord Belper that Mr. Bertolacci accepted the office on the understanding that he was not be a member of the council, *ib.* vi. ix——The Committee conclude that the opinion of the petitioner in regard to his right to attend the council was erroneous, *ib.* vi——The minute made on the appointment of Mr. Bertolacci shows that it was at no time intended that he should be a member of council, *ib.* vii——It was Mr. Bertolacci's business to have proceeded with the audit, without reference to the question of a seat at the council, such matter having been settled from the outset by Lord Belper, *ib.* ix.

See also *Chancellor of the Duchy.* *Council of the Duchy.* *Duties or Functions of Auditor.* *Oath of Office.* *Patent.* *Wards and Liveries, Court of.*

F.

Fee Fund. Payment formerly out of the fee fund, so far as it went, of the salaries of the officers; the fund is now paid over to the receiver-general, *Bertolacci* 728, 729; *Danvers* 1158–1162.

Instructions for the auditor in regard to an examination of the Duchy Fee Fund Account, *App. p.* 244.

Focke's Escheat. See *Escheated Property.*

Foreshore. In the valuation of land between high and low water-mark, Captain Evans, conservator of the Mersey, has generally been employed, *Danvers* 959.

Forms. Alteration in soms of the forms in regard to the signing of bills, &c. since the auditorship of Mr. Lockhart, *Ellis* 805. 811, 812. 817–819——Abolition by council minute, dated 6 August 1844, of the warrant for the particular, the particular, and the warrant for the bill of sale, *Danvers* 906, 907.

See also *Bills for Grants in Fee,* 1. *Leases.*

Fox, Lieutenant-General Charles Richard. (Analysis of his Evidence.)—Is Receiver-general of the Duchy of Lancaster, 1319——Inaccuracy of a statement by Mr. Bertolacci that witness was appointed by his father, 1320——Witness did not know anything of Mr. Hawker, who was appointed to succeed Mr. Bertolacci, and was not aware at the time of his having been appointed, *ib.*——Explanation of a statement by Mr. Bertolacci as to witness having treated him very slightingly, 1320, 1321——Neither the account for 1853 or 1854 was ever completely audited by Mr. Bertolacci, 1321——Grounds for a complaint by witness as to Mr. Gooch, his deputy, having been obliged to attend overtime for the convenience of Mr. Bertolacci, 1322, 1323.

Fox, Lieut.-General. See *Receiver-General.*

Fraud. See *Bills for Grants in Fee,* 4. *Defalcations.*

G.

Gooch, Joseph Henry. (Analysis of his Evidence.)—Has been first clerk in the duchy office for twenty years, and has filled the office of deputy to the receiver-general for sixteen years; has been thirty years in the office, 1387–1389——Receives 450 *l.* a year as first clerk, and 100 *l.* a year from General Fox, as his deputy, 1390, 1391.

Particulars as to the arrears due by Lord Granville for several years past; at Michaelmas last the arrear was 2,810 *l.* 3 *s.*; 1392–1399——Duties of witness as deputy to the receiver-general, 1400——Witness did not state to Mr. Bertolacci that the account for 1852 was kept open as long as possible to give Lord Granville an opportunity of paying off the arrears, but did state that the account for 1853 was kept open for that purpose; explanation hereon, 1401–1413.

Practice previously to the appointment of Mr. Bertolacci not to complete the audit of the accounts till after presentation to Parliament, 1414, 1415——When Mr. Bertolacci was appointed, witness understood that an improved method of keeping the accounts was adopted, 1416–1419——Mr. Bertolacci was aware, previously to September 1854, of Lord Granville's arrears, 1419–1422——Explanation relative to an account kept between the receiver-general and witness, which forms the basis of the receiver-general's account as presented to Parliament, 1423. 1470–1473——Application was made by witness from time to time for the arrears due by Lord Granville, 1424, 1425.

The receiver-general's accounts used to be made up on some date not previously fixed, but in consequence of Mr. Bertolacci's objection to this practice are now always closed

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Gooch, Joseph Henry. (Analysis of his Evidence)—*continued.*

on the 21st December, 1426–1433——The contingent accounts are made up by Mr. Danvers, and embodied in the returns to Parliament, 1434–1437——Explanation relative to an error of 50*l.* in the account for 1852; this error was detected by witness, and not by Mr. Bertolacci, and is stated in the account for 1853; 1438–1445.

Witness pays about 20,000*l.* a year into the bankers on account of the Receiver-general, the gross receipts by him being 23,000*l.* or 24,000*l.*; 1446–1448——Nature of the deductions from the gross receipts, 1449-1451——The returns to Parliament do not contain a detail of the gross receipts or of the deductions, 1452–1454——Inconvenience as regards the account for 1854 in consequence of Mr. Bertolacci retaining the account for 1853, which witness required in making out the former, 1455–1457. 1468–1473——Statement as to witness having closed the account for 1854 on the 22d February 1855; meaning of this term, 1456-1467.

[Second Examination.]—Explanation of the circumstances under which witness declined to produce the accounts to a person introduced by Mr. Bertolacci as his deputy, 1505–1514.

Denial of a charge by Mr. Bertolacci as to witness having acted in an offensive and domineering manner towards him; memorandum read by witness on this subject, 1515. 1516——Witness showed every anxiety to assist Mr. Bertolacci when he was appointed auditor, *ib.*——Comment upon the behaviour of Mr. Bertolacci towards witness, *ib.*——General Fox in no way influenced witness's manner towards Mr. Bertolacci, 1516, 1517.

[Third Examination.]—As regards Mr. Bertolacci's statement that he had detected errors in the account for 1853, the account has since been audited by his successor who discovered no errors in it, 1521——(*Mr. Bertolacci.*)—Witness explains that he referred to the error of 50*l.* brought forward from the account for 1852; 1522, 1523.

(*Mr. Gooch.*)—Evidence opposed to Mr. Bertolacci's statement as to the difficulty of testing the accuracy of the accounts of the Receiver-general, and as to the defective system generally of the accounts, 1524 *et seq.*——Mode of keeping the accounts, 1526–1533——The Commissariat rules of witnessing vouchers do not in any way apply to the duchy, *ib.*——Opportunities of the Chancellor or auditor for testing the amount of receipts of the Receiver-general in any period, 1533–1543——Parties authorised as receivers for the duchy, 1534–1537——The operation of an annual audit of the duchy accounts is not a very long operation, 1544, 1545——It was only on Mr. Lockhart's ill health that the examination of the accounts fell into arrear, 1547. 1569.

Explanation as to witness having on the 24th January 1855 furnished Mr. Bertolacci with a debtor and creditor account of the cash received and paid within the year ending the 29th September 1854; memorandum hereon, 1548–1551——Mr. Bertolacci had, practically, as free access to the minutes before the 20th November 1854 as subsequently, 1551——Improvement in the rental of the duchy of late years; Mr. Bertolacci's auditorship has had nothing to do with it, 1552–1562.

Further statement relative to the process of closing the account for 1854; 1563–1568 Further explanation in regard to the error of 50*l.* in the accounts for 1852 and 1853; it was pointed out to Mr. Bertolacci in September 1854; 1570–1574——Reference to some erasures in the account for 1852; explanation hereon, 1575. 1594–1599——Witness does not recollect having represented to Lord Harrowby that the business of the office was impeded by Mr. Bertolacci, but he considered that such was the case, 1576–1578.

General Fox has been in receipt of 878*l.* a year from the duchy for many years, 1579–1581——The full salary of General Fox was returned, for the first time, to Parliament, in 1855, in consequence of an order by Lord Harrowby, 1582–1584——Statement as to the term "accountant" having been substituted for the name of General Fox in the account first showing the full salary; this was a mere oversight, 1585–1593——The full salary of Mr. Danvers also appeared for the first time in the return to Parliament in 1855; 1592, 1593.

Gooch, Mr. See *Deputy Receiver General.*

Grants in Fee. See *Bills for Grants in Fee. Sales.*

Granville, Right Honourable Earl, K. G. (Analysis of his Evidence.)—Succeeded Lord Belper as Chancellor of the duchy, 1255——Explanation of the circumstances under which witness has for some years past been in arrear of rent on account of mines leased from the duchy, *ib.*——Large outlay of witness in connexion with these mines, and great improvement thereby, *ib.*——Steps taken on the appointment of witness as Chancellor, in order that he might not take part in the proceedings of the council in any matters affecting the property of which he was lessee, 1255–1257. 1265.

Reference to a statement in the "Leader" newspaper relative to witness's friends on the Committee; explanation hereon that the Duke of Newcastle, the Earl of Harrowby, and witness, whilst not objecting to the presence of Mr. Coningham on behalf of Mr. Bertolacci, declined to nominate any person to serve on the Committee on their own behalf,

Report, 1857—*continued.*

Granville, Right Honourable Earl, K. G. (Analysis of his Evidence)—*continued.*

1258. 1272——Correction of a statement by Mr. Wise as to a devastation of the surface in connexion with the collieries leased by witness, 1260.

Witness never expressed any wish that the duchy account for 1852 should be kept open or delayed until he had paid off his arrears, 1261–1264——Circumstances under which witness, as Chancellor, appointed Lord Belper a member of the council, 1266——Witness cannot recollect the details of conversation between himself and Mr. Bertolacci, but is not disposed to admit the accuracy of the details given by the latter, 1267——Grounds upon which witness acted in deciding that it was inexpedient that Mr. Bertolacci should be a member of the council, 1268.

Explanation as to witness having asked Mr. Bertolacci to draw up draft instructions for the office of auditor, 1268——Circumstances under which Mr. Hawker, of the Audit Office, attended at the duchy office, and drew up the draft instructions afterwards adopted with some alterations, *ib.*——Witness, in adopting these instructions, had no notion of limiting the powers of the auditor, *ib.*

As regards Mr. Bertolacci being afforded absence from the Ordnance Office, witness saw Sir C. Trevelyan and Mr. Monsell on the subject, but could not induce the latter to give any additional leave, 1268, 1269——Causes which led to the introduction of the Act 18 & 19 Vict.; misapprehension of Mr. Bertolacci hereon, 1269——Reason why witness directed that the accounts for 1854 should not, though closed, be handed over to Mr. Bertolocci, 1270, 1271——Testimony to the general conduct and demeanour of Mr. Danvers, 1270.

Granville, Right Honourable Earl. See *Accounts and Audit of Accounts. Arrears,* 2. *Instructions for Auditors. Mines* (*Newcastle-under-Lyme*).

Green Wax, Receiver of. Various sub-accounts comprised in the accounts kept by the clerk of the council as the Receiver of Green Wax; these accounts are made up to Midsummer, *Bertolacci* 468——Remarks on the foregoing statement, *Danvers* 1223.

H.

Halton Manor. Letter from witness to Mr. Strutt, dated 9 June 1854, relative to the sale of certain land in the manor of Halton, &c., *Bertolacci* 113.

Particulars of the grant in fee of encroachments in the parish of Runcorn, dated 12 June 1854, *App. p.* 264.

Hardy, William. (Analysis of his Evidence.)—Clerk of the Records of the Duchy of Lancaster, 1477——Made researches into the records of the duchy with a view to answer certain questions submitted by Mr. Bertolacci, 1478, 1479——Practice previously to 1844, whereby the attorney-general of the duchy and the clerk of the council signed bills of sale, 1480–1482——Under the regulation of 1844 the auditor affixed his signature to the bill; there was some modification of the practice during Mr. Bertolacci's auditorship, 1482–1485.

Explanation as to witness's answer to Mr. Bertolacci's question, whether the duchy court differed from the court of the Chancellor and council, and if so, in what respect, 1486, 1487, and *App. p.* 261——Result of witness's researches in regard to the mode of passing bills for the sale of duchy property, 1488–1498, and *App. p.* 260——Duty of the auditor to sign the bill without any right to question the surveyor's valuation 1489–1497——Object of the auditor's "particular," formerly in use, 1491, 1492. 1498.

Conclusion that the Chancellor can act singly and absolutely, and that his acts are those of the Chancellor and council; grounds for this conclusion, 1493. 1499–1502——Duty of the auditor to sign a bill though he knew it involved fraud; his duty then would be to resign, 1495–1497——Testimony to the general character and demeanour of Mr. Gooch, 1503.——Witness's salary is 360*l.* a year, 1504.

Harrowby, Right Honourable Earl of. (Analysis of his Evidence.)—Was Chancellor of the Duchy from 31 March to 7 December 1855; 1292——Cannot profess to recollect all the details of conversations, &c., referred to by Mr. Bertolacci, 1292——Difficulties experienced by witness immediately on his appointment as Chancellor in regard to Mr. Bertolacci, who much misunderstood his position as auditor, *ib.*——Question constantly being raised by Mr. Bertolacci in regard to his not having a seat at the council, to which witness was assured he had no legal right, *ib.*——Delay in the audit of the accounts in consequence of the difficulties raised generally by Mr. Bertolacci, *ib.*

On the 4th May 1855, witness considered it necessary to warn Mr. Bertolacci that his office must come to an end, on account of the delay occasioned by him to the business of the office, 1293. 1300. 1307, 1308. 1314——Circumstances under which witness suspended this determination for a time, 1293——Eventually, however, witness found it necessary to look out for a successor to Mr. Bertolacci, *ib.*——Grounds on which witness appointed Mr. Hawker of the Audit-office in Mr. Bertolacci's place, *ib.*——Throughout the whole matter witness endeavoured to act as impartially as possible, *ib.*

General

Report, 1857—*continued.*

Harrowby, Right Honourable The Earl of. (Analysis of his Evidence)—*continued.*

General Fox had nothing whatever to do with the appointment of Mr. Hawker, 1293–1295——Grounds upon which witness refused to allow Mr. Bertolacci to appoint a deputy, 2296, 1297 1304——Explanation of the circumstances under which, in May 1855, witness refused to allow the account for 1854 to be produced to Mr. Bertolacci; there was nothing to show that he had completed the account for 1853, which was still in his possession, and which witness first desired to have restored, 1298–1314.

Considerable inconvenience in consequence of the attendance of Mr. Bertolacci at the duchy office after the regular hours, 1301——In writing to Mr. Bertolacci on the 11th August, witness told him he had superseded his patent, 1305——Reference made in witness's letter of the 4th May to a suggestion by General Fox in regard to the twofold duties and offices of Mr. Bertolacci, 1306. 1310——As regards the sale of land to the Duke of Newcastle, the contract had been entered into during the Chancellorship of Mr. Christopher, 1315——Object of the Act 18 & 19 Vict. c. 58, introduced by witness, to give larger powers in regard to sales of land, 1315, 1316.

Several of the suggestions of Mr. Bertolacci for an improved practice of accounts were useful, and were adopted, 1316——The account for 1854 was ultimately given to Mr. Bertolacci, and he was engaged upon it, and the account for 1853 when superseded, 1317, 1318——Remarks upon Mr. Bertolacci's complaint as to his personal treatment by the duchy officers, 1318.

Sundry allegations in the petition in regard to the course pursued by the Earl of Harrowby towards the petitioner, *App. p.* 292 *et seq.*

See also *Act* 18 *&* 19 *Vict. c.* 58. *Hawker, Mr.* *Superseding of Mr. Bertolacci.*

Hawker, Mr. Appointment by Lord Harrowby in August 1855 of an auditor in lieu of witness, *Bertolacci* 1*——Statement as to Lord Harrowby having availed himself of the earliest opportunity to dismiss witness, at the suggestion of General Fox, *ib.* 613–615 ——Witness was informed by Lord Harrowby on the 11th August that steps had been taken to supersede his appointment, and that Mr. Hawker, of the Audit-office, had been appointed in his stead, *ib.* 645——Copy of the letter from Lord Harrowby to witness, dated 11th August 1855, referring to the backward state of the audit of the accounts, and stating that steps had been taken for appointing Mr. Hawker, of the Audit-office, as witness's successor, *ib.* 709.

Mr. Hawker is a nephew of General Fox's wife, *Bertolacci* 710——Steps had been taken to supersede witness long before he was aware of the fact, *ib.* 711——Further statement as to the part taken by General Fox in procuring Mr. Hawker's appointment, *ib.* 716–720——As regards Mr. Hawker personally, witness states that he has no unfriendly feeling towards him, and believes him to be a perfectly honourable person, *ib.* 732.

Circumstances under which Mr. Hawker, of the Audit-office, attended at the Duchy-office, and drew up the draft instructions for the auditor, which were, with some alterations, adopted, *Right Hon. Earl Granville,* 1268.

Grounds on which witness appointed Mr. Hawker, of the Audit-office, in Mr. Bertolacci's place, *Right Hon. Earl of Harrowby* 1293——General Fox had nothing whatever to do with the appointment of Mr. Hawker, *ib.* 1293–1295.

Witness did not know anything of Mr. Hawker, who was appointed to succeed Mr. Bertolacci, and was not aware at the time of his having been appointed, *Lieut.-general Fox* 1320.

Allegations in the petition in regard to the appointment of Mr. Hawker as auditor, in lieu of the petitioner, *App. p.* 306.——*See* also *Superseding of Mr. Bertolacci.*

Hours of Attendance. Remarks on a complaint by the Receiver-general, that his deputy should have to attend at the duchy office after office-hours, in order that witness should audit his accounts, *Bertolacci* 558. 581–586.

Considerable inconvenience in consequence of the attendance of Mr. Bertolacci at the duchy office after the regular hours, *Right Hon. Earl of Harrowby* 1301——Grounds for a complaint by witness as to Mr. Gooch, his deputy, having been obliged to attend over-time for the convenience of Mr. Bertolacci, *Lieut.-general Fox* 1322, 1323.

Natural discontent caused by Mr. Bertolacci on keeping the officers of the duchy after the regular hours, &c., *Rep. p.* ix.

See also *Leave of Absence.* *Ordnance Office.*

I.

Incidental Expenses. See *Contingent Expenses.*

Increase of Rental. Circumstance of there having been a considerable increase in the receipts of the duchy since the period when witness was appointed auditor, *Bertolacci* 725–727.

Report, 1857—*continued.*

Increase of Rental—continued.

Increase revenue of the duchy through the mines held by witness, *Right Hon. Earl Granville* 1255——Improvement in the rental of the duchy of late years; Mr. Bertolacci's auditorship has had nothing to do with it, *Gooch* 1552-1562——The rental in 1852 was 25,000 *l.*, and in 1853, 28,000 *l.*, *ib.* 1561.

Total rental in 1847 of 25,841 *l.* 17 *s.* 2¼ *d.*, and in 1857 of 31,187 *l.* 0 *s.* 3 *d.*, *App. p.* 262.

Allegation in the petition as to the increase of the receipts of the duchy since the appointment of the petitioner as auditor, *App. p.* 309.

The Committee attribute the increase chiefly to the improved rental from Lord Granville's estate, and not in any way to the agency of Mr. Bertolacci, *App. p.* viii.

Instructions for Auditor. Explanation relative to the draft of instructions drawn up by Lord Granville relative to witness's duties, *Bertolacci* 283-287——In witness's remarks of 2d February 1855 upon Lord Granville's instructions of the 18th January, he pointed out the evils that might result if he were prevented from investigating the affairs and accounts of the duchy in the most full and minute manner, *ib.* 305, 306——Lord Granville did not reply till the 2d March to witness's remarks of the 2d February, and then his amended instructions did not remove any of the restrictions upon the functions of the auditor, *ib.* 307-309.

Further reference to witness's observations, dated 2d February 1855, upon Lord Granville's draft instructions transmitted on the 18th January; slight difference between the draft instructions and the amended and final instructions subsequently received, *Bertolacci* 359-367——Witness considers that had he followed the instructions, he should have been led into the mere formalities of an audit, *ib.* 360.

Letter from Lord Granville to witness, on 22 December, suggesting that witness should write out what he considered to be the duties of his office; inference to be drawn from a suggestion in this letter in regard to a curtailment of the duties, *Bertolacci* 527, 528——Unwillingness displayed by witness to assent to any curtailment of his functions, or to draw any draft instructions for himself; letter to Lord Granville on this subject, dated 27 December 1854; *ib.* 527-531——Letter from Lord Granville to witness, on the 18th January 1855, enclosing the draft instructions before referred to, and asking witness for his observations thereupon, *ib.* 531-533——Further reference to the exceptions taken in witness's observations to the restrictions imposed by the instructions upon the office of auditor, *ib.* 534.

Further reference to the draft instructions and the final instructions, as having been drawn up in the duchy office with the assistance of the Audit-office; reason why the latter office was not competent to define these instructions, *Bertolacci*, 605-609, *App. p.* 235, *et seq.*

Explanation as to witness having asked Mr. Bertolacci to draw up draft instructions for the office of auditor, *Right Hon Earl Granville*, 1268——Witness, in adopting, after some alteration, the instructions drawn up by Mr. Hawker, had no notion of limiting the powers of the auditor, *ib.*

Letter from Mr. Bertolacci to Earl Granville, dated 2 February 1855, relative to the draft instructions, and his remarks thereon, *App. p.* 235——Copy of the draft instructions, and the remarks of Mr. Bertolacci, *ib.*, 235-241——Final instructions, as enclosed in a letter from Earl Granville to Mr. Bertolacci, on the 2d March 1855, *ib.* 242-244.

Allegations in the petition with reference to the draft instructions and final instructions as to the duties of the auditor, *App. p.* 289, 290.

See also *Duties or Functions of Auditor.*

Irish Reproductive Loan Fund. Particulars relative to the employment or witness on the Irish Reproductive Loan Fund, *Bertolacci* 1. 482. 520, 521——Minute of the Treasury whereby witness was awarded a donation of 300 *l.*, as a mark of approbation of his services in the matter of the Fund, *ib.* 521.

Letter from Mr. Bertolacci to the Hon. F. C. Lawley, private secretary to the Chancellor of the Exchequer (Mr. Gladstone), dated 2 March 1854, enclosing a memorandum of his case in connexion with the Irish Reproductive Loan Fund, *App. p.* 266-270.

Copies of Mr. Bertolacci's testimonials, and other documents in connexion with his employment in the management of the Fund, *App. p.* 270-278.

J.

James, William Milbourne. (Analysis of his Evidence).—Has been Vice-Chancellor of the county palatine since January 1853; 869, 870——Concurs in the opinion of the attorney-general of the duchy, that Mr. Bertolacci had no right to sit at the council, 871-873——Also in the opinion that the Chancellor had a clear right to supersede Mr. Bertolacci,

Report, 1857—*continued.*

James, William Milbourne. (Analysis of his Evidence)—*continued.*

lacci, 871, 872——Also in the opinion that no one has a right to sit at the council, unless he be summoned by the Chancellor, 873, 874——The salary of witness is 600*l.* a year, 875.

Reference to the steps taken in consequence of some observations by Mr. Bertolacci in regard to the forms of the leases; these observations were reasonable and well-founded, 876-878——The Act 18 & 19 Vict. c. 58 was introduced chiefly at witness's suggestion, 879——Course adopted in the matter of the renewal of a lease to Lord Granville of some coal and iron mines during his Chancellorship; steps taken to avoid his acting on the part of the duchy, 879-886——The council can merely advise the Chancellor; he can act entirely at his own discretion, 880–886.

Witness advised the Chancellor (then Mr. Strutt), that it was in his power to appoint an auditor without giving him a seat at the council; this advice had reference in the first instance to Mr. Bromley, 887-891——Reason why Mr. Bertolacci was excluded from the council, 889. 892, 893——The exclusion from the council could have had nothing to do with his efficiency as auditor, 893.

Jewison v. Dyson. See *Law-Suit.*

L.

Law-Suit. Remarks on a statement in the petition that a certain action at law cost the duchy 10,000*l.*, and might have been avoided by a conference between two Cabinet Ministers, if it could not have been settled by Act of Parliament; inaccuracy of this statement, both as regards the cost of the action, and the power of avoiding it to the advantage of the duchy, *Ellis* 850–858.

Authority of the late Mr. James Freshfield, upon which witness has stated in his petition that a certain action (tried at York) cost the duchy 10,000*l.*; Mr. Freshfield was alive when this statement was inserted in the petition, *Bertolacci* 863.

The action alluded to by Mr. Bertolacci as having been tried at York, was probably a different case from that named in the petition, but did not cost the duchy anything like 10,000*l.*, *Ellis* 864-868——Reference to the case of Jewison *v.* Dyson, tried in York in 1840 or 1841, as having cost the duchy only 534*l.* 17*s.* 5*d.*, *Danvers* 975–977.

Allegations in the petition in regard to a law-suit, said to have cost at least 10,000*l.*, which might have been settled by a conference between the Chancellor of the duchy and the First Lord of the Treasury, *App. p.* 286.

Remarks of the Committee as to the inaccuracy of Mr. Bertolacci's statement hereon, *Rep. p.* vii.

Leases. On the 25th August 1854 some leases of duchy property were sent to witness for his signature, prior to their being submitted to the Attorney-general of the duchy; the terms of such leases having been decided on by the council without reference to witness, *Bertolacci* 263-266——Remarks transmitted by witness in a letter to the clerk of the council, dated 21 October 1854, relative to certain defects and omissions in the drafts of leases of premises in the Strand sent to witness for his signature; letter hereon of the clerk of the council on 24th October, and addenda remarks of witness on 25th October, *ib.* 267, 268.

Suggestion in witness's statement of 21st and 25th October with a view to an amended system in preparing, issuing, and signing drafts of leases of duchy property, *Bertolacci* 267, 268——Remarks on the circumstance of neither the drafts nor the leases themselves being prepared or read over by the law officers of the duchy, *ib.* 268——Statement as to witness having, in his letter to the clerk of the council, on the 20th November 1854, taken exception to his not having been one of the committee appointed to consider the system or form of leases, *ib.* 269-271——Reference to a letter from the clerk of the council on the 28th November, as showing that fresh forms of clauses for leases were prepared, in consequence of witness's remarks, *ib.* 272, 273.

Reference to a representation by Mr. Bertolacci in regard to the form of the duchy leases; report on the subject by witness and Mr. James, dated 1st December 1854, *Ellis* 821-848——Steps taken in consequence of some observations by Mr. Bertolacci in regard to the forms of the leases; these observations were reasonable and well-founded, *James* 876-878——Any error in the forms of leases did not rest with the clerk of the office who drew them, *Danvers* 949——The suggestions of Mr. Bertolacci were referred to the law officers, and some alterations were made in the forms, *ib.* 1029–1035.

Allegations in the petition in regard to the defective forms of the leases granted by the duchy, *App. p.* 284.

Approval by the committee of Mr. Bertolacci's conduct in representing that the leases were drawn up in a careless form, *Rep. p.* vii.

Leave of Absence (from Ordnance Office). Evidence relative to the steps taken with a view to witness being occasionally absent from the Ordnance Office in order to fulfil the duties of the office of auditor, *Bertolacci* 488-503——Communication between witness

Leave of Absence (*from Ordnance Office*)—continued.

and Mr. Monsell, clerk of the Ordnance, and Mr. Henry Smith, Mr. Monsell's chief clerk, in regard to witness's occasional absence during office hours, *Bertolacci* 489-491——Mr. Strutt had told witness on the 8th May that he would occasionally grant him leave of absence for a short time if applied for by the Chancellor, *ib.* 489-499——Comment on the course eventually taken by Mr. Monsell in the matter, *ib.* 491. 499-503——The understanding was, that witness was to have leave of absence on proper application; but when he subsequently applied, he could not obtain it, *ib.* 499, 500.

Letter received by witness from Mr. Henry Smith on the 21st July 1854, as directed by Mr. Monsell, stating that witness must in no case be absent without written leave, *Bertolacci* 504——Interview of witness with Lord Granville on the 30th October 1854, for the purpose of application, by the latter, for leave of absence for witness, *ib.* 506-508——Witness subsequently heard from Lord Granville, that after an interview with Sir C. Trevelyan, it had been decided not to make the application for leave required by witness, in order properly to examine the accounts, *ib.* 508-511. 515——Letter from witness to Mr. Stephenson on the 4th November 1854, and enclosures therein, addressed to Sir C. Trevelyan, in order to explain the necessity for occasional leave of absence, and that such necessity should be represented to Lord Granville, *ib.* 513.

Letter from witness to Lord Granville on the 1st December 1854, showing the importance of time being afforded without delay for auditing the accounts, *Bertolacci* 515——Reply of Lord Granville on the 4th December, stating the opinion of Sir C. Trevelyan that it was useless to apply to the Ordnance for a futher leave of absence for witness, *ib.*——Inaccuracy of the term "leave of absence" as applied to witness when discharging the duties before alluded to at the Treasury; important and complicated nature of these duties, *ib.* 515. 519-521.——Interview between witness and Lord Granville on the 16th December 1854, when the latter said he had seen Mr. Monsell, who stated that it was not possible to spare witness from his work at the Ordnance Office, *ib.* 515.

Communication between witness and Mr. Monsell, through officers of the department, between the 18th and 21st June, relative to witness obtaining leave of absence; comment upon the course pursued by Mr. Monsell at this period in reducing the regular leave of absence from six weeks to four weeks, witness being the first to whom the reduction applied, *Bertolacci* 678-686——Witness devoted the remainder of his leave from the Ordnance Office for 1855, and several extra hours to the audit of the duchy accounts, *ib.* 687.

Statement of what passed at an interview between witness and Mr. Monsell relative to occasional leave being given to Mr. Bertolacci to attend at the duchy office during the office hours at the Ordnance, *Right Hon. Lord Belper* 1226-1229——Less indulgence was shown to Mr. Bertolacci as to his absenting himself from the Ordnance than witness had hoped, *ib.* 1226. 1229.

As regards Mr. Bertolacci being afforded absence from the Audit-office, witness saw Sir C. Trevelyan and Mr. Monsell on the subject, but could not induce the latter to give any additional leave, *Right Hon. Earl Granville* 1268, 1269.

Impression as to Mr. Strutt having asked a few days' leave for Mr. Bertolacci, when he first spoke to witness about his appointment as auditor, *Right Hon. W. Monsell* 1328——Reference to a letter from Mr. Bertolacci to witness on the 16th May 1854, and to the minute of witness thereon in regard to the absence of the former from the Ordnance on the work of the duchy, *ib.* 1329, 1330. 1333, 1334——Refusal of witness to accede to a request of Lord Granville that Mr. Bertolacci might be allowed to devote more time from the Ordnance Office to his duties at the Duchy Office, *ib.* 1332——Explanation relative to the practice of the Ordnance Department in regard to leave of absence, and to the reduction in the leave on the 19th June 1855, from six weeks to three weeks, *ib.* 1336, 1337. 1346-1358——In 1855 Mr. Bertolacci was absent twenty-three days, with leave of twenty-eight days, on account of illness, *ib.* 1346-1348——The reduction in the leave was published to the office, and applied generally, *ib.* 1355-1358.

Allegations in the petition in regard to the refusal of leave by the clerk of the Ordnance, *App. p.* 288, 289. 296, 297.

The curtailment of leave seems to have been caused solely by the pressure of business during the war, *Rep. p.* vii——Reference by the Committee to the incompleteness of the arrangement on the subject of leave, *ib.* ix.

See also *Hours of Attendance.* *Ordnance Office.* *Responsibility.*

Legard, Mr. Mr. Legard, of York, is the surveyor-general of the lands of the duchy, *Danvers* 958, 959.

See also *Oldcoates Property* (*Notts*).

Legislative Interference. The Committee conclude that the case of Mr. Bertolacci does not appear to require the interference of the House, *Rep. p.* x.

Lockhart, John Gibson. Statement to the effect that Mr. Lockhart, witness's predecessor in the office of auditor, was of right a member of the council of the duchy, *Bertolacci* 18-23——Reference made by Mr. Strutt to Mr. Lockhart's duties as not having involved much

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Lockhart, John Gibson—continued.

much labour, *Bertolacci* 185——The accounts of the duchy for the year 1852 were passed in May 1853 by witness's predecessor, *ib.* 401.

Members of the council during the auditorship of Mr. Lockhart; the auditor was always summoned, *Ellis* 755-760——Witness is not aware that Mr. Lockhart, as auditor, ever inquired into the question of valuation, *ib.* 804. 813——Free access of Mr. Lockhart, when auditor, to the minute book, *Danvers* 911, 912.

Attention paid by Mr. Lockhart to his duties up to the time of his illness, *Danvers* 1197——Mr. Lockhart discharged the duties of his office with strict punctuality and regularity so long as his health admitted of his doing so, *Right Hon. Lord Belper* 1225. ——It was only on Mr. Lockhart's ill-health that the examination of the accounts fell into arrear, *Gooch* 1547. 1569.

M.

Mines (*Newcastle-under-Lyme*). Course adopted in the matter of the renewal of a lease to Lord Granville of some coal and iron mines during his Chancellorship; steps taken to avoid his acting on the part of the duchy, *James* 879-886——Explanation as to Mr. James having been appointed pro-Chancellor, in order to act, instead of Lord Granville, in matters affecting the dealings between the latter and the duchy; doubt whether Lord Granville's letter on this subject was seen by Mr. Bertolacci, *Danvers* 1068-1079—— Proceedings of the council, irrespectively of Lord Granville, in the matter of the renewal of certain leases to his Lordship, *ib.* 1132-1134.

Great improvements effected by witness in connection with his mines, *Right Hon. Earl Granville*, 1255——Correction of a statement by Mr. Wise as to a devastation of the surface in connection with the collieries leased by witness, *ib.* 1260.

Rents accruing from the mines within the Manor of Newcastle-under-Lyme for each of the ten years to Michaelmas 1846, *App. p.* 261; also for each of the ten years to Michaelmas 1856, *ib.* 262——Account showing the net sums received, after deducting property tax, in each of the years 1837-56; *ib.* 263.

See also *Arrears of Rent*, 2.

Minutes of Council. Consideration of the general practice adopted in keeping the minutes; defect in the minutes of each meeting being on loose sheets of paper, and not always referring to the dates of the preceding minutes, *Bertolacci*, 200-222.

Explanation of the mode in which the Minutes of Council are taken down, and recorded, *Danvers*, 928-932. 934.

See also *Access to Minutes.*

Monsell, Right Honourable William (Member of the House). (Analysis of his Evidence). —Was clerk of the Ordnance in 1854, when Mr. Bertolacci, clerk in the office, was appointed auditor of the Duchy of Lancaster, 1324-1326——Communication of Mr. Strutt, then Chancellor of the Duchy, with witness in regard to the intended appointment of Mr. Bertolacci; witness raised no objection to the appointment so long as it did not interfere with the work of the Ordnance Office, 1327——Impression as to Mr. Strutt having asked for a few days' leave for Mr. Bertolacci, 1328——Reference to a letter from Mr. Bertolacci to witness on the 16th May 1854, and to the minute of witness thereon in regard to the absence of the former from the Ordnance on the work of the duchy, 1329, 1330. 1333, 1334.

Witness was not aware of any disagreement between Mr. Bertolacci and the officers of the duchy until it was mentioned in Parliament, 1331. 1335——Refusal of witness to accede to a request of Lord Granville, that Mr. Bertolacci might be allowed to devote more time from the Ordnance Office to his duties at the Duchy Office, 1332——Explanation relative to the practice of the Ordnance Department in regard to leave of absence, and to the reduction in the leave on the 19th June 1855, from six weeks to three weeks, 1336, 1337. 1346-1358.

Pressure of work in the office during the war, 1337-1342. 1343-1354——Circumstances under which Mr. Bertolacci was transferred for 30 days, in July and August 1855, from his usual department to the registrar's office, 1337-1345——In 1855 Mr. Bertolacci was absent for 23 days, with leave of 28 days, on account of illness, 1346-1348——The reduction in the leave was published to the office, and applied generally, 1355-1358.

N.

Need Wood. Laxity of principle in the rendering of the accounts relative to Need Wood, *Bertolacci*, 170.

Newcastle, His Grace the Duke of. (Analysis of his Evidence.)—Was appointed a member of the council of the duchy during the Chancellorship of Lord Campbell, 1274, 1275 ——Has not attended any council since he was Secretary of State, in December 1852;

Newcastle, His Grace the Duke of. (Analysis of his Evidence)—continued.

1276——Circumstances connected with the purchase by witness of 170 acres of land, leased by him from the duchy, for 4,219 *l.* 6 *s.* 6 *d.*; 1277–1285——Inaccurate statement in the petition that Lord Harrowby, as Chancellor, agreed to sell this land; Mr. Christopher the Chancellor in 1852, first agreed to sell, 1285. 1289, 1290.

Valuation of the land by witness's agent, 1285——Circumstance of witness having offered and given a few hundred pounds more for the land than his agent advised, 1285, 1286——Witness never attended any council in which the matter of his purchase came under consideration, 1287, 1288——Circumstance of witness having acted as Chancellor for a short time in 1854, during the absence of Lord Granville, through ill-health, 1288.

Newcastle, Duke of. See *Sales*, 2.

North Staffordshire Railway Company. Grant in fee to the North Staffordshire Railway Company, dated 17 June 1854, that is, grant of the right of carrying the railway through certain property for the sum of 450 *l.*, and grant of land at Etruvia for 359 *l.* 10 *s.*, *App. p.* 264.

O.

Oath of Office. Remarks relative to the oath taken by witness before receiving his patent; it clearly implies his presence in the council under some circumstances or other, *Bertolacci* 24–35——Witness had not previously been made acquainted with the form of oath, *ib.* 36.

There is only one passage in the oath of office taken by Mr. Bertolacci at all implying that he had a right to attend the council, *Ellis* 792, 793——Witness, as clerk of the council, administered the usual oath of office to Mr. Bertolacci, *Danvers* 897, 898——Mr. Bertolacci might readily have seen the oath before it was administered to him, *ib.* 1182——The oath taken by Mr. Bertolacci implied his presence at the council in the same way as the other members, *Ellis* 1273.

Office Accommodation. Circumstance of witness having at first been refused the use of a separate room at the duchy office, *Bertolacci* 703——Difficulty in providing a separate room at the office for Mr. Bertolacci, *Danvers* 1171. 1174–1178——Remarks on the foregoing statement, *Bertolacci* 1172, 1173——Further reference to the difficulty about providing a separate room for Mr. Bertolacci, *Danvers* 1474, 1475.

Allegations in the petition in regard to the petitioner having been refused a separate room at the duchy office, *App. p.* 302.

Officers of the Duchy. There was every disposition on the part of the duchy officials to give Mr. Bertolacci information, *Danvers* 1203——Remarks upon Mr. Bertolacci's complaint as to his personal treatment by the duchy officers, *Right Hon. Earl of Harrowby* 1318.

Allegations in the petition in regard to the petitioner having been treated in an offensive manner by the Receiver-general and his deputy, *App. p.* 290, 291. 300–302.

Remarks of the Committee as to the exaggerated importance given by Mr. Bertolacci to certain complaints of incivility and want of courtesy on the part of certain officers of the duchy, *Rep. p.* ix. —— Natural discontent of the officers of the duchy in being detained after office hours, &c. on account of Mr. Bertolacci, *ib.*

See also *Chancellor of the Duchy.* *Clerk of the Council.* *Deputy Receiver-General.* *Hours of Attendance.* *Receiver-General.*

Oldcoates Property (Notts). Particulars relative to some communications in December 1854, between witness and Mr. Legard, the surveyor-general of the duchy, relative to the valuation of some property in the township of Oldcoates, in the county of Nottingham, which had been valued by Mr. Legard at 158 *l.*, and for which 200 *l.* had been offered, *Bertolacci* 226–248——Conclusion that when Mr. Legard valued the property, he had not visited it, *ib.* 231–235. 243–248.

Letter from Mr. Legard to witness, dated June 25th, 1857, in explanation of the valuation of 158 *l.* placed by him upon the Oldcoate's property, *Danvers* 959–961.——Statement by Mr. Legard that he visited the property before valuing it, *ib.* 959.——Explanation by Mr. Legard as to 200 *l.* having been offered for the property, *ib.* 959, 960.

Grant in fee of cottages and gardens to Edward Chaloner for the sum of 200 *l.*, dated 27 December 1854, *App. p.* 264.

Ordnance Office. Witness is clerk in the Ordnance branch of the War Department, besides being auditor of the Duchy of Lancaster, *Bertolacci* 1——It was understood that witness was to hold the office of auditor of the duchy conjointly with that of clerk in the Ordnance, *ib.* 487, 488——Arrangement for the performance of witness's work at the Ordnance during his employment at the Treasury, *ib.* 519, 520——Statement as to witness having been transferred in June from his own department in the Ordnance to another

rdnance Office—continued.

another department, in which the work required him to stay extra hours; he was re-transferred when the office of auditor was taken from him in August, *Bertolacci* 687-690.

Witness was clerk of the Ordnance in 1854, when Mr. Bertolacci, clerk in the office, was appointed auditor of the Duchy of Lancaster, *Right Hon. William Monsell* 1324-1326——Communication of Mr. Strutt, then Chancellor of the duchy, with witness, in regard to the intended appointment of Mr. Bertolacci; witness raised no objection to the appointment, so long as it did not interfere with the work of the Ordnance Office, *ib.* 1327——Witness was not aware of any disagreement between Mr. Bertolacci and the officers of the duchy until it was mentioned in Parliament, *ib.* 1331-1335——Great pressure of work in the Ordnance Office during the war, *ib.* 1337. 1342, 1343. 1354——Circumstances under which Mr. Bertolacci was transferred for 30 days in July and August from his usual departments to the Registrar's Office, *ib.* 1337-1345.

The Committee consider that the two offices of clerk in the Ordnance and auditor of the duchy were not compatible, *Rep. p.* vii, viii——The transference from one branch to another had no such object as Mr. Bertolacci suspects, *ib.*

See also *Leave of Absence.*

P.

Palatinate. Correction of a statement by Mr. Bertolacci as to the duchy being a palatinate, *Ellis* 850.

Parliamentary Interference. The Committee conclude that the case of Mr. Bertolacci does not appear to require the interference of the House, *Rep. p.* x.

"Particular," Form of. See *Bills for Grants in Fee,* 1.

Patent. Witness was granted the office of auditor of the duchy by the Queen's letter patent, dated the 15th of May 1854, *Bertolacci,* 1*, 2*——Witness did not receive his patent till three days after he had taken the oath of office, and did not know previously what its contents were, *ib.* 37, 38——The patent recites the holding of the office of auditor by witness's predecessor, and continues the office in witness, *ib.* 39, 40——Witness's patent as auditor makes all parties accountable to him, *ib.* 174——Witness reads the patent, *ib.* 664.

There is nothing in the patent which infers a right to sit at the council, *Ellis* 795, 796——Necessity of a delay of a few days after Mr. Bertolacci's appointment before he got his patent, *Danvers* 1182.

See also *Tenure of Office.*

Payments. Questions raised by Mr. Bertolacci on the 16th May 1855, in regard to the checks upon payments through the receiver-general, and the signatures to vouchers, &c.; answers thereto as copied from letter of Mr. Danvers, and notes in reply by Mr. Bertolacci, *App. p.* 255-257.

See also *Accounts and Audit of Accounts. Contingent Expenses. Deductions from Rental. Witnesses to Vouchers.*

Pendleton (*Lancashire*). Grant in fee of pieces of land at Pendleton, to Mr. Aaron Wetherall, for the sum of 79 *l.* 12 *s.* 6 *d.*, dated 25th May 1855, *App. p.* 264.

See also *Bills for Grants in Fee,* 2. 4.

Petition. Remarks by the Committee upon the inconvenient form in which the petition is drawn up, *Rep. p.* iii——Enumeration by the Committee of the principal allegations in the petition, *ib.* iii-v.

Copy of Mr. Bertolacci's petition, dated 19 May 1857, *App. p.* 280-309.

See also *Presentation of Petition.*

Presentation of Petition. Explanation as to some delay in the presentation of the petition, *Bertolacci* 1*——Necessary delay till the Session of 1856 before witness could petition the House on the matter of his having been superseded in August 1855, *ib.*——Delay in consequence of Mr. Wise in the first instance, and Mr. Roebuck subsequently, having, for certain reasons, declined to present the petition, *ib.*

Press, The. As regards the articles in the "Times" and "Civil Service Gazette," witness observes that he had nothing whatever to do with them, *Right Hon. Earl Granville* 1269.

Allegation in the petition in regard to unfounded statements having been inserted in the "Times" and "Civil Service Gazette" relative to the petitioner's conduct; inference also that the insertion of these statements was the result of a powerful agency, *App. p.* 289.

Absence of any evidence in support of the allegation in the petition, *Rep. p.* viii.

Report, 1857—*continued.*

Proceedings of the Committee, Rep. p. xi-xiv.

Public Services of Mr. Bertolacci. Witness has been 21 years in the public service; nature of his services, *Bertolacci* 1, 2. 730——From the year 1847 to March 1854 witness's services had been lent by the Board of Ordnance to the Treasury, and he was employed in connexion with the Irish Reproductive Loan Fund, *ib.* 482——On the termination of these services witness addressed a memorial to Mr. Gladstone, then Chancellor of the Exchequer, and subsequently had an interview with Mr. Gladstone's private secretary relative to some appointment better than his clerkship in the Ordnance being conferred upon him in consideration of his past services, *ib.*——Statement that the appointment of auditor was given on the ground of past public services, *ib.* 483-486——Services of witness's grandfather and father under the British Government, *ib.* 730, 731.

Statement in correction of certain passages in the petition, and certain evidence by Mr. Bertolacci as to the appointment having been conferred upon him in consideration of past public services; witness did not place the office at the disposal of the Chancellor of the Exchequer, and appointed Mr. Bertolacci solely on the ground of his capacity for the office, *Right Hon Lord Belper* 1226. 1232-1236.

Witness delivers in the correspondence between himself and Mr. Gladstone as explaining the grounds upon which he was appointed auditor of the duchy, *Bertolacci* 1603, and *App. p.* 266.

Memorandum of Mr. Bertolacci's case in connexion with the Irish Reproductive Loan Fund, *App. p.* 266-270——Copies of Mr. Bertolacci's testimonials, and of documents connected with his employment on the Irish Reproductive Loan Fund, *ib.* 270-278——Appointments, &c., held by the relations of Mr. Bertolacci in the service of the State, and services rendered by them, *ib.* 277, 278.

Allegation in the petition that the appointment was given in consequence of public services, and of testimonials of efficiency, *App. p.* 281. 308, 309.

The Committee consider that Mr. Bertolacci had grounds for believing that the appointment was conferred upon him as a reward for public services, though it never was so positively stated to him, *Rep. p.* vi. ix.——The presentation of the petition should not in any way derogate from the former claims of Mr. Bertolacci, *ib.* x.

Q.

Qualifications of Mr. Bertolacci. Other public offices held by witness, besides that of clerk in the War Department, before his appointment as auditor of the Duchy of Lancaster, *Bertolacci* 1——Statement of Mr. Strutt in the House of Commons adverted to, in regard to the efficient investigation by witness of certain Treasury accounts, *ib.* 63, 64——Favourable testimony borne by Sir C. Trevelyan and Mr. Leake to witness's services at the Treasury, *ib.* 520, 521——Witness was born in this country, *ib.* 732.

Witness, on appointment as Chancellor, resolved to appoint an auditor well conversant with accounts, *Right Hon. Lord Belper* 1225——Witness saw Mr. Gladstone, then Chancellor of the Exchequer, who on the 30th March 1854 wrote to witness in favour of the appointment of Mr. Bertolacci, *ib.* 1225, 1226——Sir Charles Trevelyan, Mr. John Abel Smith, and Mr. Lefevre, bore testimony to Mr. Bertolacci's qualifications for the office, *ib.* 1226. 1233. 1236.

Copies of Mr. Bertolacci's testimonials in connexion more especially with his employment on the Irish Reproductive Loan Fund, *App. p.* 270-278.

Reference by the Committee to the public services of Mr. Bertolacci, *Rep. p.* iii.

R.

Receiver-General. Letter from General Fox to witness, dated the 9th February, containing strong remarks upon witness's proceedings, generally in regard to the receiver-general's accounts, *Bertolacci* 558——Observations in detail upon the foregoing letter, *ib.*——Statement as to the salary enjoyed by General Fox as receiver-general, though he deputes his duties to another person, *ib.*——Comment upon a passage in the letter of 9th February, objecting to witness as auditor, on the grounds of his time being required in another public office; and stating that the whole matter should be laid before the new Chancellor, about to be appointed, *ib.*——Reference to General Fox's appointment as having been through the patronage of his father, *ib.*

Further letter from General Fox, on the 14th February, requesting witness to return the account for 1853, and declining to hold further direct communication with him, *Bertolacci* 561——Explanation as to witness having in his petition described the foregoing letter as "not only uncourteous, but most offensive and overbearing," &c., *ib.* 562-575——Remarks on the circumstance of General Fox having in his letter added to his own signature his military rank of "Lieutenant-General," whilst he addressed witness as "F. Bertolacci," *ib.* 563-575——Office hours at the Ordnance adverted to in connection with General Fox's intimation in his letter of the 9th February, that witness had better give up one of his appointments, *ib.* 576-580.

Further

Report, 1857—*continued.*

Receiver-General—continued.

Further remarks on the employment of a deputy by the Receiver-General, whilst he himself receives a salary of 878 *l.* a year, *Bertolacci* 581–588——Presence of the Receiver-General at the Council, on the 14th November, 1854, when the question of witness's right to sit at the Council was very generally discussed, *ib.* 589.

Further reference to the desire expressed by General Fox, in his letter of the 9th February, that witness should be superseded, *Bertolacci* 656——Illustration of the harsh opinion formed of witness by General Fox, *ib.* 701.

Witness is Receiver-General of the Duchy, *Lieutenant-General Fox* 1319——Inaccuracy of a statement by Mr. Bertolacci that witness was appointed by his father, *ib.* 1320——Explanation of a statement by Mr. Bertolacci as to witness having treated him very slightingly, *ib.* 1320, 1321——Witness unintentionally omitted the word "Esquire" after Mr. Bertolacci's name in the letter in question, *ib.* 1321——Witness always signs his title after his name in writing formal letters, *ib.*

General Fox in no way influenced witness's manner towards Mr. Bertolacci, *Gooch* 1516–1517——General Fox has been in receipt of 878 *l.* a year from the Duchy for many years, *ib.* 1579–1581——The full salary of General Fox was returned, for the first time to Parliament in 1855, in consequence of an order by Lord Harrowby, *ib.* 1582–1584——Statement as to the term "accountant" having been substituted for the name of General Fox, in the account first showing the full salary; this was a mere oversight, *ib.* 1585–1593.

Allegations in the petition condemnatory of the treatment of the petitioner by General Fox, *App. p.* 290, 291.

See also *Accounts, and Audit of Accounts.* *Cash Balance* (*Receiver-General*). *Mr. Hawker.*

Receiver-general's Accounts. See *Accounts, and Audit of Accounts.*

Receivers. Parties authorised as receivers for the duchy, *Gooch* 1534-1537.

Records of the Duchy. Witness made researches into the records of the duchy, with a view to answer certain questions submitted by Mr. Bertolacci, *Hardy* 1478, 1479——Result of these researches, *Hardy* 1481 *et seq.*, and *App. p.* 260, 261.

Rental of the Duchy. Rents accruing in the ten years ended Michaelmas 1856, distinguishing the rent for the mines in lease to Earl Granville from the rents for the other properties of the duchy, *App. p.* 262——Total rental in 1847 of 25,841 *l.* 17 *s.* 2 ¼ *d.*, and in 1857 of 31,187 *l.* –*s.* 3 *d.*, *ib.*——*See* also *Increase of Rental.*

Responsibility. Objection generally to the system of the duchy in passing accounts upon the mere credit and responsibility of the parties putting them forward; the position of these, however high, should not debar them from having their acts questioned by the auditor, *Bertolacci* 481.

In consequence of the decision of Lord Granville, in regard to leave of absence for witness from the Ordnance Office; witness wrote to him, declining the responsibility of the consequences, *Bertolacci* 511——Remark by Lord Granville at an interview on the 16th December 1854, relative to witness withdrawing a statement that he would not be responsible unless leave of absence were afforded him, *ib.* 515——Withdrawal by witness, in a letter to Lord Granville on the 20th December 1854, of a statement which he had made, disclaiming responsibility, *ib.* 522, 523.

Mention of officers responsible to witness, as auditor, under his patent, *Bertolacci* 593.

Officials responsible for the accuracy of the returns, as laid before Parliament, *Danvers* 1080, 1081.

See also *Accounts, and Audit of Accounts.* *Duties or Functions of Auditor.*

Returns to Parliament. See *Accounts, and Audit of Accounts.* *Clerk of the Council.* *Receiver-general.*

Roebuck, Mr., M.P. Communication between witness and Mr. Roebuck, in June 1856 and subsequently, with a view to the petition being presented by the latter; reason eventually assigned by Mr. Roebuck for not going on in the matter, *Bertolacci* 1*.

S.

St. Helen's Canal and Railway Company. Comment on letter of witness, dated the 4th August 1854, upon the bill for the sale of certain land or foreshore, in the parish of Childwall, to the St. Helen's Railway Company, *Bertolacci* 185——The valuation of Captain Evans did not appear to have been made upon a due consideration of the circumstances involved, *ib.*

Report, 1857—*continued.*

St. Helen's Canal and Railway Company—continued.

Reference to certain property of the duchy on the borders of the Mersey, as having been sold for its full value, or rather for much more than it was worth, *Evans* 970–974.

Grant in fee of foreshore or beach of the river Mersey, in the parish of Childwall, to the St. Helen's Canal and Railway Company, for 850 *l.*, dated 12 August 1854, *App. p.* 264.

Salaries of Duchy Officers. Allegations in the petition in regard to the amendment effected by the petitioner in the statement of the salaries of the officers of the duchy, in the accounts as returned to Parliament, *App. p.* 309.

The Committee observe that the present practice is preferable to the former; and that Mr. Bertolacci deserves credit for bringing the subject under the notice of the Chancellor, *Rep. p.* ix.

See also *Clerk of the Council. Deputy Receiver-general. Fee Fund. Receiver-general.*

Salary (*Mr. Bertolacci*). The joint salaries of the clerkship in the Ordnance, and the auditorship in the duchy (the latter being 200 *l.* a year), were less by 60 *l.* a year than what witness received when employed at the Treasury, *Bertolacci* 520, 521.

Witness considered that the duties of the office of auditor were such as to admit of their being advantageously discharged by a person in some public office, *Right Hon. Lord Belper* 1225. 1237——And that the salary of the office should be reduced from 400 *l.* to 200 *l.* a year, *ib.* 1225.

Sales:

1. *Generally.*
2. *Duke of Newcastle.*

1. *Generally:*

Certain property of the Duchy, the bills for the sale of which witness declined to sign, was not put up for sale by public auction as suggested by witness, *Bertolacci*, 91.

Belief that the real value of the properties leased or sold by the duchy during the last ten years has been obtained, *Danvers* 953——Under the enlarged powers of sale, by the Act 18 & 19 Vict., there have been some cases of sale by public competition, *ib.* 954, 955——Approval of sales by valuation in the case of small detached pieces of land, *ib.* 954, 956, 957.

2. *Duke of Newcastle:*

Particulars relative to some grants of different pieces of land to the Duke of Newcastle the bill for which, or rather the certificate, was placed before witness for his signature, on the 26th May 1855, *Bertolacci* 374–378. 388–390——At the time of these grants the Duke of Newcastle was one of the council of the duchy, he had acted as Chancellor for a time in the autumn, *ib.* 380–387.

Particulars relative to the sale of several lots of land, comprising 171 acres, and two perches to the Duke of Newcastle, a member of the council; belief that the price given for the property, namely, 4,219 *l.* 6 *s.* 6 *d.* was the full value, *Danvers* 1139–1157——The Duke of Newcastle always absented himself from the council when the sales to him were being discussed; approval of this proceeding, *ib.* 1148. 1150.

Circumstances connected with the purchase by witness of 170 acres of land, leased by him from the duchy, for 4,219 *l.* 6 *s.* 6 *d.*, *Duke of Newcastle* 1277–1285——Valuation of the land by witness's agent, *ib.* 1285——Circumstance of witness having offered and given a few hundred pounds more for the land than his agent advised, *ib.* 1285, 1286——Inaccurate statement in the petition, that Lord Harrowby, as Chancellor, agreed to sell the land; Mr. Christopher, the Chancellor in 1852, first agreed to sell, *ib.* 1285. 1289, 1290——Witness never attended any council in which the matter of his purchase came under consideration, *ib.* 1287, 1288.

As regards the sale of land to the Duke of Newcastle, the contract had been entered into during the Chancellorship of Mr. Christopher, *Right Hon. Earl of Harrowby* 1315.

Particulars of the lands comprised in the grant to the Duke of Newcastle, on the 2d June 1855; the total amount is 172 acres and ten perches, the consideration money being 4,219 *l.* 6*s.* 6 *d.*, *App. p.* 264.

Remarks by the Committee on the sales to the Duke of Newcastle; the Duke seems to have acted in a more scrupulous manner than if he had no connexion with the council, and even seems on that account to have made a less favourable bargain, *Rep. p.* vii.–ix.

See also *Access to Minutes. Accounts, and Audit of Accounts, Act* 18 *&* 19, *Vict. c.* 58. *Bills for Grants in Fee. Chancellor of the Duchy. Duties or Functions of Auditor. Salford Property. Valuations.*

Report, 1857—*continued.*

Salford Property:

1. *Sale to Mr. John Brooks of Manchester.*
2. *Sale to the Mayor and Corporation of Salford.*

1. *Sale to Mr. John Brooks of Manchester:*

Instance, in the case of duchy property at Salford, of witness objecting to sign the bill of sale on the ground, not only that he had not been previously consulted, but that the valuation was inadequate, *Bertolacci* 93–107——The agreement for the sale of this property was made before witness was aware of any intention to sell it, *ib.* 94–97. 105, 106——Letter from witness to Earl Granville, dated 8th January 1855, with reference to the bill for the sale of the land at Salford to Mr. John Brooks of Manchester; sundry reasons assigned by witness therein for declining to sign the bill, *ib.* 101–107——Exceptions taken by witness in regard to the valuation of this property; correspondence on this point between him and Mr. Dawes, the clerk of the council as enclosed in letter to Lord Granville of the 8th January, *ib.* 101–103.

Letter from the clerk of the council to witness, dated 18th January 1855, in reply to witness's letter of the 8th January, *Bertolacci* 103——Remarks or notes made at the time by witness upon the foregoing letter; belief that these remarks were communicated to Lord Granville in witness's correspondence with him, *ib.* 103, 104——Comments on a letter from Lord Harrowby to witness dated 4th May 1855, with respect to his unwillingness to sign the bill for the sale of the Salford encroachments, *ib.* 288, 289——Remarks upon a statement in Lord Harrowby's letter of 4th May 1855, in regard to witness having been asked to affix his signature to the bill relative to the Salford property "in the usual way," *ib.* 613.

Reference to the circumstance of Mr. Bertolacci having refused to sign a bill until he had seen the minute with the Chancellor's signature, *Danvers*, 928——Explanation of the circumstances connected with the sale of the property to Mr. Brooks, *ib.* 1015–1023——Statement as to Mr. Bertolacci having been asked to sign a bill, the minute authorising which was not produced by witness as having been signed by the Chancellor, *ib.* 1184–1192——Reference to some remarks by Mr. Bertolacci (*Q.* 613), in regard to his signature to the bill being required in the usual way, *ib.* 1368——The bills of sale being merely transcripts of the grants, it is not necessary that the money should be paid before they are signed, *ib.*

Grant in fee of land at Salford to Mr. John Brooks, for the sum of 53 *l.* 15 *s.*, dated 25th May 1855, *App.* p. 264.

2. *Sale to the Mayor and Corporation of Salford:*

Letter from witness to Mr. Strutt, dated 9th June 1854, relative to three bills of sale, one of them for the sale of land in Salford to the Mayor and Corporation of that borough, *Bertolacci* 113.

Grant in fee of land at Salford to the Mayor and Corporation of Salford, for 130 *l.*, dated 15th June 1854, *App.* p. 264.

See also *Bills for Grants in Fee*, 2. 4.

Seals. Authority under which the small seal is affixed to instruments generally, *Danvers* 1044–1054. 1062——Custody of the small seal adverted to, *ib.* 1055–1060.

Security Bonds. Duty of witness as auditor to examine into the sufficiency of the security bonds entered into by or on behalf of the officers of the duchy; curtailments of this duty by Lord Granville, *Bertolacci* 600–602. 604.

Separate Room. See *Office Accommodation.*

Sinecures. Witness found on his appointment as Chancellor in December 1852, that there were still some offices attached to the duchy which partook more or less of the nature of sinecures, *Right Hon. Lord Belper* 1225——The office of auditor then held by Mr. Lockhart was to a certain extent a sinecure, *ib.*

Sovereign, The. The estates of the duchy are a perpetual trust for the Sovereign; Her Majesty has only a life interest in them, and cannot alienate them, *Bertolacci* 4, 300——Remarks on a letter from Mr. Danvers on the 22d January 1855, as to the authority of the Sovereign in regard to the management of the property, and the appointment of members of the council, *ib.* 300.

Witness did not tell Mr. Bertolacci that the additional members of council appointed by Lord Campbell were so appointed, because the Queen thought the chancellor should not act alone, *Danvers* 1118, 1119——Limit by Act to the power of the Sovereign over the property, *ib.* 1123–1127——Reference to witness's letter of 22d January 1855, to Mr. Bertolacci, as stating that the Queen or the Chancellor of the Duchy appoints the members of the council; practice hereon to swear in the members before the Queen, *ib.* 1359–1363.

Strutt, Right Hon. Edward. See *Belper, Right Hon. Lord.*

Report, 1857—*continued.*

Superseding of Mr. Bertolacci. Effort of Lord Harrowby, after his appointment as Chancellor of the Duchy on 31st March 1855, to appoint an auditor in place of witness, *Bertolacci*, 1*——Letter from Lord Harrowby on the 4th May, reviewing in detail the past proceedings of witness as auditor, and concluding by an intimation that he had come to a determination to appoint an auditor in his place, *ib.* 613——General comment upon Lord Harrowby's letter, and his resolution to displace witness, *ib.*——Witness considers the letter of Lord Harrowby to have emanated from himself, independently of the council, *ib.* 616.

Letter from witness to Lord Harrowby on the 9th May 1855, stating that as there was no charge of misconduct against him as auditor, there was no ground for displacing him; that he did not vacate his office, and that Lord Harrowby could not abrogate his patent, *Bertolacci* 641——Letter from Lord Harrowby to witness on the 11th August 1855, referring to the backward state of the accounts, and stating that steps had been taken to appoint a successor to witness, *ib.* 709——Witness was at work at the duchy up to a late hour on the evening of the 10th August, the day before he was superseded, *ib.* 709.

Grounds for the statement in paragraph 199 of the petition; belief that when Lord Harrowby wrote a letter to Mr. John Abel Smith in May 1855, he had in contemplation the appointment of Mr. Hawker, *Bertolacci* 712–720——Reference to a letter from witness to Lord Harrowby on the 13th August, in which he protests against the illegality and injustice of the proceeding, depriving him of the auditorship, *ib.* 723——Letter from Lord Harrowby to witness, on the 17th August, denying that he had determined in May to supersede witness, and doubting the fact of the appointment having been as a return for public services, *ib.* 724.

Allegations in the petition in regard to the steps taken by Lord Harrowby for superseding the petitioner in his office of auditor, *App. p.* 293. 305-307.

On the 4th May 1855 witness found it necessary to warn Mr. Bertolacci that his office must come to an end, on account of the delay occasioned by him to the business of the office, *Right Hon. Earl of Harrowby*, 1293-1300. 1307-1308. 1314——Circumstances under which witness suspended this determination for a time, *ib.* 1293——Eventually, however, witness found it necessary to look out for a successor to Mr. Bertolacci, *ib.*——Throughout the whole matter witness endeavoured to act as impartially as possible, *ib.*

In writing to Mr. Bertolacci, on the 11th August, witness told him he had "superseded" his patent, such being the term he was advised to adopt, *Right Hon. Earl of Harrowby*, 1305——Reference made in Witness's letter, of the 4th May, to a suggestion by General Fox in regard to the two-fold duties and offices of Mr. Bertolacci, *ib.* 1306-1310.

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Trevelyan, Sir Charles. Circumstance of Sir Charles Trevelyan having remarked that witness's appointment was 200 *l.* a year for life, *Bertolacci* 489——Remarks on a statement as made by Sir C. Trevelyan to Lord Granville, that witness, with his powers of

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Letter from Mr. Bertolacci to the private secretary to the Chancellor of the Exchequer, dated 2 March 1854, enclosing a memorandum of his case in connexion with the Irish Reproductive Loan Fund; observations in the letter and the memorandum complaining of certain conduct on the part of Sir C. Trevelyan, *App. p.* 266–270.

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Brought from the Lords, 20 August 1857.

REPORT

FROM THE

SELECT COMMITTEE OF THE HOUSE OF LORDS

ON THE

SALE OF POISONS, &c. BILL (H.L.);

TOGETHER WITH THE

PROCEEDINGS OF THE COMMITTEE,

MINUTES OF EVIDENCE,

AND

INDEX.

Ordered, by The House of Commons, *to be Printed,*
21 *August* 1857.

294—Sess. 2.

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REPORT.

BY THE COMMITTEE appointed to consider the "SALE of POISONS, &c. BILL," and to report to The House; and to whom were referred several Petitions relating to the subject-matter of the Inquiry.

ORDERED TO REPORT,

THAT the Committee have met, and considered the said Bill, and have examined several Witnesses in relation thereto, and have directed the Minutes of Evidence taken before them to be laid before your Lordships.

And the Committee have gone through the Bill, and directed the same to be reported to your Lordships, with some Amendments.

10th August 1857.

ORDER OF REFERENCE.

Die Jovis, 4° *Junii* 1857.

"Sale of Poisons, &c. Bill [H. L.]:—That the said Bill be referred to a Select Committee to consider and report."

The Lords following were named of the Committee:

Ld. President.
D. Somerset.
M. Salisbury.
E. Derby.
E. Stanhope.
E. Hardwicke.
E. Malmesbury.
E. Grey.
L. Ponsonby.
L. Redesdale.
L. Somerhill.
L. Rossie.
L. Cloncurry.
L. Campbell.
L. St. Leonards.
L. Wensleydale.
L. Talbot de Malahide.

LORDS PRESENT, AND MINUTES OF PROCEEDINGS AT EACH SITTING OF THE COMMITTEE.

Die Lunæ, 8° *Junii* 1857.

LORDS PRESENT:

Lord President.	Lord Cloncurry.
Duke of Somerset.	Lord Wensleydale.
Lord Ponsonby.	Lord Talbot de Malahide.
Lord Rossie.	

Order of Reference read.

Order of the House of Thursday last, empowering the Committee to appoint their own Chairman, read.

It is proposed, That the Lord President should take the Chair.

The same is agreed to, and the Lord President takes the Chair accordingly.

Discussion.

Ordered, That the Committee be adjourned to To-morrow, half past Three o'clock.

Die Martis, 9° *Junii* 1857.

LORDS PRESENT:

Lord President.	Lord Rossie.
Duke of Somerset.	Lord Cloncurry.
Marquess of Salisbury.	Lord Wensleydale.
Earl Stanhope.	Lord Talbot de Malahide.

The LORD PRESIDENT in the Chair.

Order of Adjournment read.

The Proceedings of the Committee of yesterday are read.

Order of the House of 8th June last, referring to the Committee a Petition of the Liverpool Chemists Association against the Bill, read.

The said Petition is read.

The following Witnesses are called in, and examined, and are directed to withdraw, viz.: *Jacob Bell*, *George Waugh*, and *Thomas N. R. Morson*.

Ordered, That this Committee be adjourned to Friday next, half past Three o'clock.

Die Veneris, 12° *Junii* 1857.

LORDS PRESENT:

Lord President.	Earl of Hardwicke.
Duke of Somerset.	Lord Rossie.
Marquess of Salisbury.	Lord Wensleydale.
Earl of Derby.	Lord Talbot de Malahide.

The LORD PRESIDENT in the Chair.

Order of Adjournment read.

The Proceedings of the Committee of Tuesday last are read.

The following Witnesses are called in, are examined, and are directed to withdraw, viz.: *Jacob Bell, Peter Squire, Thomas N. R. Morson, William Lionel Bird,* and *Henry Deane.*

Ordered, That this Committee be adjourned to Monday next, half past Three o'clock.

Die Lunæ, 15° *Junii* 1857.

LORDS PRESENT:

Lord President.	Lord Ponsonby.
Duke of Somerset.	Lord Rossie.
Marquess of Salisbury.	Lord Wensleydale.
Earl of Derby.	Lord Talbot de Malahide.

The LORD PRESIDENT in the Chair.

Order of Adjournment read.

The Proceedings of the Committee of Friday last are read.

Orders of the House of 12th June last, referring to the Committee a Petition of certa in Chemists and Druggists of *Nottingham,* against the Bill; and, of *John Stephens,* ag ainst restricting the sale of the drug "Lobelia," read.

The said Petitions are read.

The following Witnesses are called in, and examined, and are directed to withdraw, viz.: *John Abraham*; *John Baker Edwards.*

Ordered, That this Committee be adjourned to To-morrow, Two o'clock.

Die Martis, 16° *Junii* 1857.

LORDS PRESENT:

Duke of Somerset.	Lord Rossie.
Earl of Hardwicke.	Lord Wensleydale.
Lord Somerhill.	Lord Talbot de Malahide.

In the absence of the Lord President, it is proposed that the Duke of *Somerset* should take the Chair.

The same is agreed to; and the Duke of *Somerset* takes the Chair accordingly.

Order of Adjournment read.

The Proceedings of the Committee of yesterday are read.

The following Witnesses are called in, and examined, and are directed to withdraw, viz.: *William Heropath*; *John Hammill.*

Ordered, That this Committee be adjourned to Friday next, Two o'clock.

Die Veneris, 19° *Junii* 1857.

LORDS PRESENT:

Lord President.	Earl Stanhope.
Duke of Somerset.	Earl of Munster.
Marquess of Salisbury.	Lord Talbot de Malahide.
Earl of Derby.	

The LORD PRESIDENT in the Chair.

Order of Adjournment read.

The Proceedings of the Committee of Tuesday last are read.

Order

Order of the House of the 16th, adding the Earl of *Munster* to the Committee, read.

The following Witnesses are called in, and examined, and are directed to withdraw, viz.: *Frederick Crace Calvert*; *Walter Wilson.*

Ordered, That this Committee be adjourned to Tuesday next, Two o'clock.

Die Martis, 23° *Junii* 1857.

LORDS PRESENT:

Lord President.	Earl of Derby.
Duke of Somerset.	Lord Somerhill.
Marquess of Salisbury.	Lord Talbot de Malahide.

The LORD PRESIDENT in the Chair.

Order of Adjournment read.

The Proceedings of the Committee of Friday last are read.

The following Witnesses are called in, and examined, and directed to withdraw, viz.: Professor *William Thomas Brande*; *Samuel Joseph Burch.*

Ordered, That this Committee be adjourned to Tuesday next, Two o'clock.

Die Martis, 30° *Junii* 1857.

LORDS PRESENT:

Lord President.	Earl of Derby.
Duke of Somerset.	Lord Somerhill.
Marquess of Salisbury.	Lord Rossie.

The LORD PRESIDENT in the Chair.

Order of Adjournment read.

The Proceedings of the Committee of Tuesday last are read.

The following Witness is called in, and examined, and directed to withdraw, viz.: Professor *Alfred Swayne Taylor.*

Ordered, That this Committee be adjourned to Thursday next, Two o'clock.

Die Jovis, 2° *Julii* 1857.

LORDS PRESENT:

Lord President.	Lord Somerhill.
Duke of Somerset.	Lord Rossie.
Marquess of Salisbury.	Lord Talbot de Malahide.

The LORD PRESIDENT in the Chair.

Order of Adjournment read.

The Proceedings of the Committee of Tuesday last are read.

Order of the House of 30th June last, referring to the Committee a Petition of certain Chemists and Druggists of York, against the Bill, read.

The said Petition is read.

The following Witnesses are called in, and examined, and directed to withdraw, viz.: Dr. *John Moore Neligan*; Professor *Alfred Swayne Taylor.*

Ordered, That this Committee be adjourned to Tuesday, 21st, Three o'clock.

Die Martis, 21° *Julii* 1857.

LORDS PRESENT:

Lord President.	Earl of Derby.
Duke of Somerset.	Lord Rossie.
Marquess of Salisbury.	Lord Wensleydale.

The LORD PRESIDENT in the Chair.

Order of Adjournment read.

The Proceedings of the Committee of Thursday, the 2d, are read.

Discussion.

The Preamble is postponed.

The Clauses of the Bill to Clause 6, are read and considered, Amendments being made therein.

Ordered, That this Committee be adjourned to Thursday next, Three o'clock.

Die Jovis, 23° *Julii* 1857.

LORDS PRESENT:

Lord President.	Lord Rossie.
Duke of Somerset.	Lord Wensleydale.

The LORD PRESIDENT in the Chair.

Order of Adjournment read.

The Proceedings of the Committee of Tuesday last are read.

The Clauses of the Bill are further considered.

Ordered, That this Committee be adjourned to Monday, August 3, Three o'clock.

Die Lunæ, 3° *Augusti* 1857.

LORDS PRESENT:

Duke of Somerset.	Lord Wensleydale.
Lord Rossie.	

In the absence of the Lord President, it is proposed that the Duke of *Somerset* should take the Chair.

The same is agreed to; and the Duke of *Somerset* takes the Chair accordingly.

Ordered, That this Committee be adjourned to Friday next, Three o'clock.

Die Veneris, 7° *Augusti* 1857.

LORDS PRESENT:

Lord President.	Lord Rossie.
Duke of Somerset.	Lord Wensleydale.

The LORD PRESIDENT in the Chair.

Order of Adjournment read.

The Proceedings of the Committee of Monday last are read.

The Clauses of the Bill are read and considered, and further Amendments made therein.

Ordered, That this Committee be adjourned to Monday next, Four o'clock.

Die Lunæ, 10° *Augusti* 1857.

LORDS PRESENT:

Lord President.
Duke of Somerset.
Lord Somerhill.

The LORD PRESIDENT in the Chair.

Order of Adjournment read.

The Proceedings of the Committee of Friday last are read.

The several Clauses of the Bill are read, and agreed to, with Amendments.

The Schedules are read, and agreed to, with Amendments.

The Draft of a Report having been prepared, the same is read by the Clerk, and agreed to. (*Vide* the Report.)

Ordered, That the Lord in the Chair do make the said Report to the House, and do also report the Bill, with the Amendments.

MINUTES OF EVIDENCE.

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LORDS PRESENT:

Lord President.	Lord Rossie.
Duke of Somerset.	Lord Cloncurry.
Marquess of Salisbury.	Lord Wensleydale.
Earl Stanhope.	Lord Talbot de Malahide.

THE LORD PRESIDENT in the Chair.

Evidence on the Sale of Poisons, &c. Bill.

Jacob Bell, Esq. T. N. R. Morson, Esq. George Waugh, Esq.

9th June 1857.

JACOB BELL, Esquire; THOMAS NEWBORN ROBERT MORSON, Esquire; and GEORGE WAUGH, Esquire; are called in, and examined as follows:

1. *Chairman* (to Mr. *Bell*).] WILL you state what society you are here to represent?

The Pharmaceutical Society of Great Britain.

2. Will you state to the Committee what the Pharmaceutical Society is?

The Pharmaceutical Society is an institution established for the purpose of promoting education in those who dispense medicine. It was founded in the year 1842; and it was originally designed to comprise all persons who should in future dispense medicines. A charter was obtained in the year 1843, sanctioning the society as a voluntary institution; and, from that time, efforts were made every year to obtain the passing of an Act confirming the charter, which was effected in the year 1852. The charter was granted on the 18th of February 1843, and the Pharmacy Act is the 15th & 16th Victoria, chapter 56. The powers which were sought to be obtained in the Act were not granted, but merely an honorary distinction was given to those who should think proper to comply with the requisitions of the society, by passing an examination; the object being that, in future, all pharmaceutical chemists should pass an examination, as a security to the public that those who deal in medicines, many of which are strong poisons, should be fully qualified for that important duty. The society has, since its formation, devoted itself to the education of pharmaceutical chemists, having a school and lectures, which are given gratuitously, and also a practical class, where chemistry is taught on payment of a fee, which barely pays the expenses. The society has expended in money, since it was established, nearly 3,000 *l.* a year in these educational purposes; and a considerable number of chemists have been examined, and are now in business as pharmaceutical chemists in different parts of the country; but, it being a voluntary association, there is no power to bring any persons within its operation, excepting the stimulus afforded by the desire of distinction. The society has devoted a good deal of attention to the subject of the sale of poisons, and the precautions which are required in reference to their sale; but it has always been the opinion of the society, that security of the public would be better effected by an attention to the intelligence and qualification of the vendor, than by any arbitrary regulations with regard to the shape of the bottles, or to the obtaining of certificates from clergymen or justices of the peace, or those various regulations which have been proposed in the Bill now before the House of Lords.

3. Will you be so good as to state, generally, your objections to the provisions of the Bill, which I believe you have had an opportunity of considering; afterwards,

Jacob Bell, Esq.
T. N. R. Morson, Esq.
George Waugh, Esq.

9th June 1857.

afterwards, to its details; and then suggest to the Committee any substitutes which may occur to you to be desirable?

The second section of the Bill proposes to repeal the Arsenic Act, with the view, as it appears, of re-enacting it, including a variety of other substances with arsenic. In our opinion, the Arsenic Act has done some good; and, so far as relates to arsenic, it is practicable and judicious.

4. Will you state what amount of good, in your opinion, has been done by that Act?

Simply by creating a difficulty in obtaining arsenic; it has increased the difficulty of obtaining arsenic. No Act of Parliament will ever prevent the sale of arsenic, or of any poison, to a person who is determined to have it; but in many cases where persons who are not to be trusted have asked for it, they have been refused, and it affords a very convenient excuse for a chemist to decline to sell it; he says, "There is an Act of Parliament in force which is a reason why I decline to sell it."

5. So that you think that it has thrown difficulties in the way of the purchaser, and has also to a certain extent been of use to the seller in giving a civil excuse to the intended purchaser?

Yes. So far as relates to the sale of arsenic we think that it has done some good; but if all the alkaloids, prussic acid, belladonna, stramonium, chloroform, nux vomica, tartarized antimony, and all these other preparations were to be added, it would become entirely impracticable to carry out such a Bill; therefore, we consider that it would be much better to leave the Arsenic Act where it is, and to deal with the other poisons in a different way. There might possibly be a few which could be dealt with in a similar way to the Arsenic Act, but the number is exceedingly limited, and would require a great deal of consideration in the settlement which they should be. In the construction of the Act the word "poison" is said to apply to a variety of substances in the Schedule, together with any others which may at any future time be added by Her Majesty in Council. This involves the entire dispensing of prescriptions in rather a complicated position, if prescriptions are in any degree affected by the Bill. It also affects the sale of a number of domestic medicines which are continually used by the public, and which the public understand the use of perfectly well, more particularly when supplied by a chemist who does his duty in giving the needful information. It would be a great hardship upon the public to be deprived of the use of antimony and certain preparations of opium, and many other substances which are mentioned in the Schedule.

6. Lord *Cloncurry*.] But would you call it being deprived of the use when there was merely a slight difficulty put in the way of the purchase?

The difficulty of obtaining an order from a clergyman or a justice of the peace on each occasion of the purchase of any of these medicines would in many cases be almost tantamount to a prohibition, and it would throw upon the clergyman and the justice of the peace an amount of responsibility which they would, I should think, be very unwilling to enter upon. It would also take away from the pharmaceutical chemist, the person who sells the poison, that responsibility which at present is a great safeguard to the public.

7. *Chairman*.] You are probably not aware that, in moving that The House should go into Committee upon this Bill, I stated that I proposed to add the certificate of two resident householders, which I think might be reduced to one; would that diminish your objection to this clause?

It would certainly diminish it.

8. Do you think that it would be objectionable in that case?

I think that, with the large number of substances mentioned in the Schedule, it would be too much to expect that there should always be a certificate in every case where any one of these substances is sold.

9. Lord *Rossie*.] Merely the security of one householder?

I think, with so large a number of articles as there are in the Schedule, that would be rather an extreme provision.

10. You think that any authority whatever for procuring the article would be difficult?

I think

I think it would; I think there would be a difficulty in it, considering the number of preparations. A chemist who understands his business takes the requisite precautions himself; he would always ascertain that the person applying for the poison understood the use of it before letting him have it.

11. *Chairman.*] Then your objection to the fifth clause extends to any certificate whatever, notwithstanding the exceptions mentioned in the 11th clause, of which I believe you are aware?

I should not like to be too positive in objecting to so modified a proposition as that; but I should like that, before giving a positive opinion, we should have an opportunity of conferring together upon the subject. It certainly would be much less objectionable than the Bill in its original state.

12. What is your next objection?

Then, with regard to the sixth clause, it appears to be rather a complicated system, the entry and registration of every sale, considering that a number of domestic medicines which are, in fact, poisons, are continually sold in very small quantities; and it would be a very great obstruction to ordinary business if every sale must be attended with the complicated machinery applied in the sixth clause.

13. Is it now your practice to make no entry when you sell poisons?

Yes; with the exception of arsenic, there is no registration of the sale of poisons.

14. With regard to the sale of strychnine, do you make no entry?

Practically, we scarcely sell it at all; it is in almost every case refused. Chemists sometimes have a very long correspondence with persons desirous to obtain it, and in many instances they decline at last to sell it at all.

15. Lord *Rossie.*] Is that a new regulation?

I am speaking of the conduct of individuals; there is no law of the society connected with the subject.

16. Marquess of *Salisbury.*] Would there be any objection to a registration of all the poisons, in the same manner as there is a registration with regard to arsenic?

I think it would be impossible to extend it to all poisons; nine out of ten of the substances which we sell are poisons, if taken in too large a dose.

17. Lord *Cloncurry.*] But is not the entry in the day-book of the establishment virtually a register of the sale of the poison?

Where the sale is entered in the day-book it would be so, but it would not be the case if a pennyworth of precipitate powder, or any simple preparation of that sort, were required for domestic use; we should not put down every pennyworth in the day-book.

18. Marquess of *Salisbury.*] How, then, would it be entered with regard to the receipts for the day?

It would merely be entered under the head of sundries; if 20 customers came in for a pennyworth each, it would be put down as "sundries 1 *s.* 8 *d.*," and frequently, in the hurry of business, it is impossible to enter every small customer that comes into a shop.

19. You could not then enter the delivery of any poison not under the prescription of a physician?

It might be done with regard to certain very dangerous poisons; but to extend it to everything which comes under the definition of "poison," according to the strict meaning of the term, would be utterly impossible.

20. *Chairman.*] Therefore by the present practice you have no means of giving evidence as to any poison sold excepting the personal recollection of either yourself or your assistant who may have dispensed it?

No.

21. Lord *Talbot de Malahide.*] I suppose your business is conducted like most other businesses. As I understand you, where a party pays ready money, there is no entry; but where there is an account kept, the particulars are entered into a book as to the articles which are sold?

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That is the fact; where the account comes to a shilling or upwards, it would be entered for the purpose of accuracy in the accounts, but for no other reason.

22. *Chairman.*] In this case is the objection to the complication of the entry, or to any entry being required for the greater quantity of poison sold?

The objection applies to the extended list in the Schedule, and the complication of the entry. If you extend the schedule, so as to comprise so large a number of domestic medicines which are in constant use, it will offer a very great and a needless obstruction to business to require them all to be entered in the manner prescribed in the sixth clause. If you diminish the number of poisons, it will then be much easier to comply with the sixth clause.

23. What is your next objection?

In the seventh clause it is stated that "No poison sold shall be wrapped in paper only without a covering of tinfoil." That appears to be almost an impracticable regulation, inasmuch as it would apply to pounds of oxalic acid, and other large parcels of that description, and it would be of very little use, inasmuch as the tinfoil would be thrown away. I have not been able to ascertain what the object of the precaution is, more particularly as tinfoil is used frequently for many medicines containing essential oil, where the oil would be absorbed in the paper, such as cubeb powders, and other powders with some essential oil mixed with them, which are wrapped in tinfoil, and taken by the patients. If patients are taught that anything wrapped in tinfoil is poison, they will be afraid to take the powders under those circumstances.

24. Lord *Cloncurry.*] Could you suggest any distinctive mark as to poison which would be more acceptable to the society which you represent?

I believe that the labelling of everything with the word "poison" is the best safeguard which could possibly take place.

25. *Chairman.*] Will you state any other objections which you have to this clause, and then state what you think would do instead of the regulations proposed?

The clause proceeds to enact that "every bottle containing poison shall have the word 'poison' cast or moulded in raised letters on four sides of the bottle." We are quite unanimous in objecting to that regulation, as giving a false security; because although you may compel the chemist to sell the poison in a square bottle with "poison" on it, you cannot compel the customer to use that bottle exclusively for poison; poor people will use whatever bottles they find for any purpose that they require, and it would be utterly impossible to cause that law to be carried out in practice by the public even though it were observed by the trade.

26. Lord *Talbot de Malahide.*] Would you object to triangular bottles?

We object to any regulation which cannot be invariably acted upon, on the same principle that a post and rail placed outside of a pond, if it is placed there at all, should be so strong as not to break the first time a person leans against it; it would be better to have no post and rail at all, which would cause people to keep at a proper distance, than to have one which would deceive you as soon as you began to rely upon it; and that is our opinion with regard to the security which is supposed to exist in the shape of the bottles.

27. *Chairman.*] Then you think that the safety of the consumer is advanced by the want of any warning on the part of the seller of the poison?

The safety of the consumer would be more secured by the chemist labelling everything, and giving proper directions, and by the consumer using common sense in the use of these things. The idea, that because an article is in a bottle of a particular shape, it is therefore either safe or unsafe, according to that shape, is an assumption that other senses are not to be resorted to.

28. Do you ever in your practice, and do other chemists, use any particular shaped bottle, or any peculiarly-colored bottle, to denote either that it is for outward use, or that it contains poisonous matter?

We do in some cases; where a prescription orders a liniment and a draught of the same size, we have the custom of putting the liniment in a blue bottle.

29. With

29. With what object?
Simply for the convenience of the patient.

30. Why do not you, in that case, trust to the common sense of the purchaser, and to the label?
It is simply a slight assistance to the patient in the use of these articles but from having been many years in the habit of adopting that precaution, and finding that there are only certain cases to which it is applicable, I am of opinion that the enforcing of it by an Act of Parliament would be impossible. There are many cases where you cannot obtain a bottle of exactly the size which you require.

31. Lord *Cloncurry.*] Are you not aware that the patentees of any patent medicine are in the habit of inventing for their own purposes a peculiar bottle to contain the description of medicine for which they have taken out a patent?
Yes, they do so; and these bottles are very often square, with letters upon them; and, consequently, if the public were taught that all square bottles with letters on them were hazardous, that being the form adopted for poisons, they would be afraid to take a variety of substances which are continually used and recommended for internal use.

32. *Chairman.*] Would not the patentee take the security of altering the shape of his bottle in order to sell his medicine?
It would be much more probable that the public, from knowing that a great many medicines were always sold in bottles of this form, would cease to place any reliance on the shape at all, and that it would become a dead letter.

33. Lord *Wensleydale.*] Supposing that all poisons were required to be in bottles of a triangular shape, which is very uncommon, and I believe scarcely ever used, would not that be a guard to the public in purchasing poisons?
You would not be able to prevent the public using these triangular bottles for any purpose that they might require.

34. Lord *Rossie.*] But purchasing is the question; would it prevent them purchasing in such a bottle?
If the public did not regard the distinction as one for them to act upon, it would afford no security to the public. If the public were in the habit of using bottles indiscriminately for poisons, and for substances not poisonous, the distinction would cease to have any effect in protecting the public.

35. Lord *Wensleydale.*] Supposing the sale of poisons was permitted to take place in triangular bottles and in nothing else, that would be a warning to the public, and would distinguish that article from every other?
As regards the sale of any particular poison, it would at the time be distinguished; but as soon as the purchaser had emptied the bottle, and required a bottle for something else, that bottle would be used in the same way as a bottle of any other shape, and then the public would lose the idea of there being any distinction.

36. *Chairman.*] Your recommendation is, that the only distinctive mark should be a label pasted on the bottle?
Yes.

37. Lord *Cloncurry.*] Has not that been always the case hitherto, and yet we know that the results have been that numbers of accidents have occurred?
All respectable and educated chemists are in the habit of pasting labels on the bottles; but we continually hear of cases where articles of this sort are purchased at chandlers' shops, where they never think of putting on a label.

38. *Chairman.*] Then you think that in those cases it would be desirable to have the restriction made universal?
Certainly, with respect to the labelling of anything. It would be very proper that a person who should sell a dangerous or a strong substance without any label on it, should be liable to a penalty; there could be no objection to that.

39. To the vast class of uneducated persons in this country, who unfortunately cannot read with facility, do not you think that there is some advantage in that which catches their eye, even if they are not able to read the directions printed?

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If it would be possible to carry it out universally, it might be an advantage; but it is on that point where we see an impracticable difficulty.

40. Lord *Rossie.*] Do not you think that if a person took up a bottle with a peculiar mark on it, or of a peculiar shape, his attention would be more particularly directed to what was contained in that bottle?

I think it might be the case.

41. *Chairman.*] What is your next objection?

The next objection is with regard to the colouring of poisons. The eighth clause enacts, "No person shall sell any colourless poison whatsoever in a solid state, unless the same be, before the sale thereof, mixed with soot or indigo." Now, looking at the list of poisons, corrosive sublimate, the poisonous vegetable alkaloids, prussic acid, cyanides of potassium, mercury and silver, chlorides of zinc and antimony, and oxalic acid, many of these substances are used for purposes for which the colour would make them entirely unsuited. There is a provision in the clause, that when that is the case the person may purchase the poison without such admixture, in quantities of not less than half a pound; consequently, if an ounce of a poison be required, and it be stated that the colour would injure it, the customer is obliged to have seven ounces more than he wants; and supposing that to be oxalic acid, he would have a paper parcel, whether it were in tinfoil, or whatever it happened to be in, containing something very like Epsom salts, which would be a great source of danger; whereas by being permitted to purchase an ounce, which is all he wants, without the colour, he would use it, and have none in store which would be liable to accident.

42. Then you object to the whole clause, but you think that a portion of the objection would be taken away, if the limit of quantity was removed?

I think that that is one great objection to the clause, but I scarcely know any of these substances in the schedule to which the colouring with indigo or soot would be applicable, unless it be arsenic, which for certain agricultural purposes is coloured, and without any injury, and for poison for vermin.

43. Are we to understand that all the other poisons mentioned in Schedule (A.), with the exception of arsenic and its compounds, are not applicable to any purposes for which they might be used in a coloured state?

I am not aware of any one of them which could be used in a coloured state, coloured with indigo or soot. Some of them are coloured; belladonna, for example, and hemlock have a specific colour of their own, and they are only required for medicinal use.

44. Do the same objections apply to the next clause with regard to colouring liquid poisons?

Yes; the objection applies to the next clause, inasmuch as there would be no uniformity in the colour, for some of the substances would change the colour of the archil, and take it away altogether.

45. Will you mention the substances which would so affect it?

Chloride of zinc would change it; it would be also affected by acids and alkalis.

46. Would the admixture of archil, with regard to those substances which you are mentioning, change the shade, or alter the colour altogether?

In some it would alter the colour altogether.

47. To go back to the previous clause; which do you think would be the least objectionable, the colouring of solid poisons with soot or with indigo?

I scarcely know which of the poisons either of those colours would be applicable to; taking the schedule, with the exception of arsenic, I do not think there is any difference in that respect; one would be as objectionable as the other. In some cases the soot is found to interfere with arsenic as a poison for rats.

48. Lord *Cloncurry.*] Does it neutralise its effect?

They will not touch it; and consequently, although that is a minor objection, yet still it shows that, even in the case of arsenic, there is an inconvenience in the practice of colouring. But we do not insist upon that, because it is a trifling matter

matter compared with the advantage to be gained in causing an obstruction in the sale of arsenic.

49. Marquess of *Salisbury.*] Is there any other colouring matter which could be substituted for soot and indigo and archil?

I am not aware of any which would answer better.—(Mr. *Morson.*) Any universal colouring matter would greatly increase the danger of the use of poisons.

50. *Chairman.*] Why?

They would be constantly mistaken; everything having that colour would be mistaken for poison; you could adopt no colour which would not be applicable to many other substances.—(Mr. *Waugh.*) And in the case of criminal poisoning, arsenic put into puddings, and so on, persons get accustomed to this black arsenic. We know that, with great ease, we can separate the arsenic. If I wished to poison, I should be less likely to be found guilty of criminal poisoning now than I should have been two or three years ago before the Arsenic Act passed, because now, if they do not find some black flakes in the crust of the pudding, they think it is all right. The people in the country, if they found it without colour, would not suspect it. The security is really worth nothing. Of course, cunning persons in the country wishing to poison, a man like Palmer, for instance, would have been delighted if there had been nothing but coloured strychnine; the people about him would have said there was no colour in the glass; he would very soon have got the strychnine out from this coloured soot, and the arsenic is got out at once; there is no difficulty.

51. Lord *Cloncurry.*] You think that a safeguard which is not an entire safeguard is worse than none?

I think so, decidedly, especially in the present state of chemical knowledge, when we can follow these things. If the poison is there, we can get it; we do not want the colour; and we should not presume that a man was innocent because there was no colour.

52. *Chairman.*] Would your observations apply to unintentional poisonings?

Accidental poisoning I do not think those observations would enter into at all; people would just get acquainted with this black colour, and when it is accidentally the case that there is the white arsenic, it gets mixed with the flour. The cases are so very rare, that I think we feel a difficulty in legislating about it altogether. But if the public are led to believe that they are just to trust to colour, there will be more poisoning, especially when they can get poison so easily uncoloured; they have only to make a false affidavit.

53. Lord *Wensleydale* (to Mr. *Bell*).] Which are the colourless solids in Schedule (A.)?

The poisonous alkaloids, the cyanides of potassium, mercury and silver, chloride of zinc, and oxalic acid and binoxalate of potash, which are used for bleaching straw and cleaning boot tops. Tartarized antimony is also a colourless solid. There is no purpose for which tartarized antimony is ever used in which the colour would be admissible.

54. It would be injurious in every case, you say, in which it is used?

It would interfere with the use of it; it is commonly used as a domestic medicine, given every day by mothers to their children.

55. *Chairman.*] In that case would it not be exempt from the necessity of being coloured?

It would; but then it is in the schedule nevertheless.

56. But its being in the schedule would not prevent its exemption?

No; but there appears to be no advantage in putting a substance in the schedule which is entirely exempt from the operation of the Bill; it might as well be put in Schedule (B.), which it ought to be, certainly.

57. As being innocuous?

As being one to which the Act ought not to apply. I am speaking of such a case as that of tartarized antimony, which is in continual use in all families; it is one of the most common remedies for children. The 11th section, I was about to observe, exempts a variety of non-professional trades altogether from the operation of the Bill in the buying or the selling of any poisonous article.

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58. Before you go to the 11th clause, I had better state that I propose to omit in the 20th line the words "by or"?
Then in future those parties would not be able to sell the poisons, but they might buy.

59. So altered, have you any objection to that clause?
I believe it would be impossible for such an Act to be carried out, without exempting the parties mentioned there from some of its provisions. We also think that the words "pharmaceutical chemists" ought to be introduced; that they ought to be exempted from the operation. Legally qualified medical practitioners are exempted. The pharmaceutical chemists are recognised by law as being legally qualified in pharmacy, and we consider that therefore the term "pharmaceutical chemists" ought to be included in the exemption in this clause, inasmuch as the public are quite as safe in the hands of an educated pharmaceutical chemist, with regard to the sale of a poison, as they would be in the hands of a medical man.

60. Then you would propose to alter this clause, by inserting in it an exemption from the operation of the Act of all those persons; how would you describe them?
"All registered pharmaceutical chemists."

61. Lord *Rossie.*] All persons belonging to your society?
They might be members of the society or not; some are on the register of pharmaceutical chemists who are not members. The society is empowered to examine any person who comes up for examination, and to grant a certificate; and upon that certificate being given, the person is placed on the register as a pharmaceutical chemist.

62. You would exempt any one having a certificate from your society?
As a pharmaceutical chemist.

63. Lord *Talbot de Malahide.*] As I understand you, you consider that the only efficient safeguard to the public against either criminal or accidental poisoning is, by having the selling of these poisons vested in the hands of com petent and properly educated persons?
We consider that that is by far the greatest security which the public can possibly have with regard to this subject.

64. In the list of poisons almost all drugs are contained?
I should think nine out of ten.

65. I therefore presume that you consider that the public have no possible security as long as drugs are sold by parties who have not given satisfactory evidence of their having passed a proper education for carrying on their trade?
Yes, that is our opinion.

66. And you consider that the examination which now, under the auspices of your society, is a voluntary one, ought to be made compulsory?
We think it ought, by degrees. It would be difficult to introduce any law of that sort suddenly, but that would be the greatest security which the public could have with reference to the sale of poisons.

67. Lord *Rossie.*] Do you think that the privilege of persons who had a certificate from the Pharmaceutical Society being included among those allowed to sell poisons without these restrictions, which otherwise the Act imposes, would induce parties to study and qualify themselves to get that certificate?
Yes, any privilege of that description would cause a great influx of candidates for examination, and therefore increase the number of qualified chemists in the course of a very few years.

68. Earl *Stanhope.*] What proportion do you reject of candidates who present themselves?
Sometimes we have rejected two out of ten. Speaking from memory, I should think that that was quite as many as we generally do reject; but then those who come up generally have taken a good deal of pains to prepare themselves.

69. *Chairman.*] Have you any objection to the 12th clause?
The 12th clause proposes to place all poisons in a poison closet. That appears

appears to us to be an impracticable regulation, inasmuch as it would involve the rearrangement of every chemist's establishment in the kingdom, and an alteration every time any fresh poisons were added to the Schedule by Her Majesty in Council. Besides which, these poisons are so different in their nature, that it would be difficult to classify them all in any cupboard for the purpose. And it would be impossible to keep that cupboard under lock and key; because it would be in use the whole of the day, considering the number of poisons in the Schedule which are medicines in continual use in dispensing prescriptions.—(Mr. *Waugh.*) I think that the spirit of an honest answer to that question about the cupboard cannot be given better than in this way, that if this Act were passed with this Schedule, I believe, in my own establishment, the only safe plan would be to put some few things, which cannot in any way be called poisons, in the passage, and lock the door of the shop. The Schedule really embraces almost everything; for we have so many combinations containing, in some form or other, some of the elements which appear in this Schedule, that really the shop would be the poison cupboard. The prussic acid and the preparations of opium are very frequently prescribed. We could not do it. We should have accidents in running and jostling against each other to get poisons out. I am sure that that is the fact of the case.

70. Lord *Rossie* (to Mr. *Bell*).] Are you aware whether any precaution has been adopted in any country, such as having separate cupboards?

There are certain poisons which are secluded in France; but I believe it is not universally or strictly carried into effect.

71. Do you know any other country where it is done?

In Austria and in Russia.

72. And in Prussia?

And in Prussia.

73. You think that the regulation is not carried strictly into effect?

I believe in France it is not very strictly carried into effect; but I think that in Prussia and Austria they are rather more strict.

74. You do not speak from your own personal knowledge?

I have travelled in those parts partly with a view of ascertaining the system adopted as nearly as I could, but the information, of course, I obtained from individuals, and I believe that the law is much more strictly carried out in Prussia and Austria than it is in France. I judge from conversations which I have had with persons.

75. Lord *Wensleydale.*] Is the list of poisons large which are set apart?

It is rather a large list; in the Austrain Pharmacopœia there is rather an extended list.

76. Are there as many as there are in the first Schedule here?

I think there are.

77. *Chairman.*] Are you at all aware whether there is more poisoning in Prussia or in France than in this country?

I have no statistical information upon the subject. (Mr. *Morson.*) There is no more precaution taken in France than in this country with regard to keeping poisons. I resided there for some years; the poisons were distributed exactly in the same way in the chemist's shop, without any distinction; the people were better educated, and comparatively few accidents occurred.

78. Lord *Cloncurry* (to Mr. *Bell*).] Have you not often read in the newspapers, that even the head of a chemical establishment, not a shop-boy or an uneducated assistant, has made a mistake in reaching up for a bottle, in the dusk of the evening we will suppose, the colour of the two jars or bottles having been exactly similar. We have frequently read on the examination upon coroners' inquests that the chemist unfortunately reached down the wrong vessel from its having happened to be side by side with what he intended?

That has happened, and it has also happened that a Judge has reached down the wrong Act of Parliament, and that there has been a new trial on the ground of misdirection; but that is simply because all human beings are liable to mistake.

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79. Do not you think that it would have been less likely to have occurred if he had had to go to a closet which was specially known as the closet where all that class of medicines was contained; do not you think that it is much more likely that that occurrence would not have taken place under those circumstances than with the two vessels, side by side, on the same shelf?

There would then be this other inconvenience, that when he has fetched his bottle of morphia, or whatever it may be, to weigh out the quantity required, he gets an accumulation of these little bottles on the counter before him, and he must either leave his customers while he goes back to the closet to take each bottle the instant he has used it, or else there will be these poisons distributed on the counter before him. In practice there would be considerable difficulty attending that, although it may appear not so clear to those who have not stood in a shop and actually seen the inconvenience of such regulations.

80. *Chairman.*] Is there any limit of age in practice with regard to the assistants of pharmaceutical chemists?

No.

81. Is there any examination into their competency?

There are three examinations; there is the examination of apprentices in the classics; a very lenient examination just with reference to their original education at school; there is the minor examination in chemistry, pharmacy, materia medica, and botany for assistants, and there is the major examination for the full qualification of a pharmaceutical chemist.

82. Is there any restriction in practice with regard to the persons employed in the shops of members of the Pharmaceutical Society, by which security is taken that the assistants are not perfectly incompetent?

It is the custom in many houses only to take assistants who have passed the examination; that is becoming a custom, but there is no law to prevent a chemist taking any person.

83. And there is no regulation among yourselves which prevents your employing incompetent assistants?

No. In fact the supply of assistants is not yet sufficient. It would be impossible for us to carry out a regulation of that sort, because we must first get a supply sufficient for the demand.

84. Have you seen a pamphlet which has been sent to me, called "Minute of Committee on the Indiscriminate sale of Poisons," from the Manchester and Salford Sanitary Association?

No, I have not seen it.

85. In their Appendix, I see that the committee state that they had been favoured with an account of the regulations adopted in Prussia with regard to the sale of poisons, contributed by Dr. Brisken, royal physician of the district of Elberfeld. He gives an account of the regulations in force, and ends by stating, "With the view to furnish a small proof how rarely poisoning occurs, I beg leave to observe, that during my 15 years practice in my official situation in this place, one of the most populous districts of the state, only one instance of poisoning (that of a lad, aged 16), which was accidental, took place among our mechanics, a class of people certainly not the most praiseworthy for moral feelings." From the conversation which you have had with persons in Prussia, do you think that that statement would generally have been borne out, that the amount of poisoning was very small, either accidental or intentional?

I have no means of giving a very definite answer to that question. I have not heard that poisoning is very frequent in Prussia.

86. Marquess of *Salisbury.*] From what class of persons do you generally obtain the various poisons of which you make use; are they confined to one class of persons from whom you purchase different poisons, or are they from various manufacturers of different sorts of poison?

They are from a great variety of persons. We obtain a great variety of poisons from the herbalists; and we obtain some from the manufacturing chemists; some from the wholesale dealers or merchants. There are a great number of classes of persons from whom they are obtained.

87. How

87. How would this Bill affect those parties in furnishing the poisons to you?
I think it would require some consideration to answer that question. It would not affect the sale from the wholesale to the retail dealers; and consequently I suppose that the herbalists, going about and collecting poisonous herbs in the hedges, which they do, and bring them to the druggists, would be considered wholesale dealers, and would be therefore exempt from the operation of the Bill.

88. Would, therefore, any restraint be put upon those persons in distributing poisons improperly, or without sufficient caution?
It is possible that such a Bill as this might restrain them from retailing the poisons; but I am not aware that the collectors of herbs are in the habit of retailing them. I have never heard of any accidents from that source.

89. Is it not the custom of the herbalists frequently to sell the poisonous herbs in country neighbourhoods?
The herbalists do so. The persons who keep shops for the sale of herbs, sell them by the pennyworth to any person who asks for them.

90. Would this Bill restrain that effectually?
So far as relates to any herbs which are in the Schedule, it would; but there are a very large number of herbs which are not mentioned in the Schedule, which would be sold without any restriction whatever.

91. What effect would this Bill have in restraining the sale of opium, which I believe is publicly sold in all the grocers' shops in my own neighbourhood?
I think it would have some effect in restraining the sale, but it would be almost impossible to carry it into effect in many country districts, where pennyworths of laudanum and opium are very often sold, and habitually taken by the public at large. It is possible that some advantage might arise from restriction of the giving of opium to children. That is very common in the manufacturing districts; but it is a question which would require some medical authority to interfere with it; upon that question medical evidence should be taken.

92. Are there not many preparations which are habitually administered by the poor people to their children, and to themselves, which are as effectual poisons as those in this Schedule?
A very great many. If this Act were to pass in its present form, there would be no difficulty whatever in obtaining any amount of poison, because it only takes a very limited section of the list of poisons.

93. *Chairman.*] Have you any further objection to the 12th clause?
(Mr. *Waugh.*) There is one very great objection with regard to the proper English name. We know, as dispensers of medicine, what are the bottles containing things which would be called poisons. For instance, there is Fowler's solution of arsenic, which is, I believe, in frequent use; it is a specific in ague. They take opium, and they take Fowler's solution. One article, namely, opium, is put into this Schedule: it is a necessary: no doubt many people have used it, and taken too much. If we were to put the English name upon it, a person would come into my shop, and say, "You have put up so and so." There is prussic acid, a most valuable medicine, which we are dispensing all day long. A man sees a large label, with the word "poison" upon it; he will not touch it, and he goes to his doctor, and says, "You are giving me poison." I think that, in practice, the whole of this clause would be utterly impracticable.

94. Lord *Cloncurry.*] Do you not think it is as well that there should be as little mystery as possible in such a matter?
It would be better to ask the medical profession that question. The treatment of disease altogether is a mysterious matter, and the more the public are instructed, the more harm they do themselves. If a man's mind is a little on the go, cunning is always at work. You tell him that he shall not poison himself, and it makes him do it at once.

95. How is it possible that the non-competent assistants, which Mr. Bell says the profession are obliged to employ, on account of the scarcity in number of competent ones, are able to understand a prescription?

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It is a very easy matter. The Latinity of it is of a very simple kind; the words are usually contracted. They know the words, though many of them might not be able to put the terminations to them. I know it is the practice, and I do so myself, in engaging a young man, to give him a prescription, and to say, "Oblige me by putting the terminations to this." The words are written very short, and in many cases they are unable to do it.

96. Do you not believe that there are many occurrences, not of a fatal character, but still where wrong medicines are substituted by reason of these mistakes; that is to say, where the benefit is not derived which would be derived if the prescription were properly understood by the dispenser?

I really think not. I should be bringing a charge against one's brethren if I were to say yes. I do not think so.

The Witnesses are directed to withdraw.

Ordered, That this Committee be adjourned till Friday next, half-past Three o'clock.

Die Veneris, 12° Junii 1857.

LORDS PRESENT:

Lord President.	Earl of Hardwicke.
Duke of Somerset.	Lord Rossie.
Marquess of Salisbury.	Lord Wensleydale.
Earl of Derby.	Lord Talbot de Malahide.

THE LORD PRESIDENT in the Chair.

Evidence on the Sale of Poisons, &c. Bill.

JACOB BELL, Esquire; PETER SQUIRE, Esquire; THOMAS NEWBORN ROBERT MORSON, Esquire; WILLIAM LIONEL BIRD, Esquire; and HENRY DEANE, Esquire; are called in, and examined as follows:

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Peter Squire, Esq.
T. N. R. Morson, Esq.
W. L. Bird, Esq.
H. Deane, Esq.

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97. *Chairman* (to Mr. *Bell*).] I think that at our last meeting we had gone through your objections to the first twelve clauses of the Bill. I will now ask you what objections you have, if any, to the 13th clause, and then afterwards with respect to the Schedule?

Since we had the honour of an interview with the Committee on the former occasion we have gone more completely into the Bill, and I now have in my hand a copy of the Bill, with a pen struck through the objectionable parts, so that I can, in a tangible shape, leave with the Committee the Bill so altered as that we think it would be unobjectionable. Of course, we cannot presume to suppose that every suggestion which we make will be adopted by the Committee, but we merely propose to hand it in, giving such reasons as we think, practically, will be considered to be sufficient.

98. Lord *Rossie*.] Are the reasons stated on that Bill, or are we to take them from your evidence?

They are not written; I can give verbally the reasons for each alteration, as we go on with it.

99. *Chairman*.] Will you be so good as to hand in the Bill?

I can hand it in; but in making the explanation, I should wish to refer to each point.—(*The Witness delivers in the same.*)

100. Will you state what your objections are to the 13th clause?

The objections that I have to make with regard to the 13th clause are simply these, that in the event of the other clauses being altered, it would be necessary to make this clause to correspond. For example, if the certificate of a clergyman were not required, the word "clergyman" would naturally be erased from the 13th clause, and so on in reference to the other alterations which are suggested in the other parts of the Bill. With regard to the last paragraph of this section, we consider that the provision that, for a second offence, any person should be disabled from carrying on business, would be an arbitrary and exceedingly unfair provision, of which I know no other example in any similar enactment, in this or any other country, as to the degree of severity. The penalty also appears to be rather heavy, considering the number of small offences comprised in the category in the 13th clause. For the omission of signing the name in a particular form, or of complying with any of those details in the entry, a penalty is to be incurred; and for the second offence of a like description the person is to be disabled from conducting his business in future. Probably the substitution of a lower penalty, and the erasure of the last paragraph, would meet the objections. But I think that the principal question which

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we have to refer to is the Schedule, which is the part that we now come to. I hold in my hand a copy of the Schedule amplified: that is to say, with all the compounds and subdivisions enumerated. On one page I have the articles enumerated and included in the Schedule; on the other page I have a similar number of articles equally dangerous, but not included. I have gone through this Schedule, not with a view of including all the poisons which we can find, but merely to take an even balance, and the result is, that we shall have about as many not in the poison closet as there will be in the poison closet, showing that the distinction proposed to be made by the poison closet, is a distinction without a difference. Perhaps a few examples may be sufficient to illustrate the object of this document, which I can leave with the Committee to make any use of it which may be thought desirable.—(*The Witness enumerated some of the poisons in the poison closet, and as large a number of similar substances equally or nearly as poisonous, which are not ordered to be kept in the poison closet.*)

101. Earl of *Derby.*] Your general statement is, that there are as large a number of poisons not enumerated under the prohibitions of the Bill, and as dangerous, as those which are enumerated?

Yes; we have not gone through the whole of the Materia Medica, but have merely taken at random such as have occurred to us as being similar, so as to make a parallel exhibition on one column, and the other showing the inutility of having a poison cupboard which contains substances, while an equal number of similar substances, or in fact a much longer list, which we could make, if requisite, are out of the closet.

102. What is the inference which you seek to draw from putting in that statement; is it that the list, as prepared in the Bill, ought to be increased and enlarged, or that the inherent difficulties of the case are such that it is impossible to make an enumeration of all poisons for the purpose of containing due security for the public?

The inference to which we come is, that the establishment of a poison closet is impracticable; each person must adopt the regulations or precautions in reference to these substances according to the nature of his business, because many of these articles are not kept by all chemists; some keep one class of substances more than others, and each person is the best judge of the precautions which are requisite in the keeping of them.

103. But with regard to the framing of this Bill, is the inference which you seek to draw, that this Schedule should be extended and enlarged, or that the difficulties of classing in a Schedule what poisons are to be prohibited are so great, that in point of fact the Bill in its present form cannot be properly adopted?

We have reduced the Schedule very considerably to make the Bill practicable.

104. Lord *Wensleydale.*] You propose to reduce the Schedule?

We propose to reduce the Schedule, and also to abandon the provision about having a poison closet. I ought to mention that it is our opinion, and it has always been so, that this Bill is commencing legislation at the wrong end.

105. *Chairman.*] Having stated your objections *seriatim* to the different portions of the Bill, will you now make any suggestions whether, in your opinion, this Bill can be so amended as to be made available for its object, or whether you can propose any substitute for this Bill with the same object, or whether you think that all legislation on the subject is hopeless?

I may mention that our opinions are founded partly upon the result of an investigation which took place prior to the passing of the Arsenic Act. At that time we issued a series of questions to chemists throughout all parts of the kingdom, with reference to arsenic chiefly, but also with reference to other poisons, as to their being generally sold by grocers, oilmen, and other unqualified persons. The result of that investigation, which I will, with the permission of the Committee, hand in, is contained in a printed report which was published in the Pharmaceutical Journal,* with all the details. The committee came to the following

* Vol. IX., Nos. 7 and 8.

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following conclusion: "On a review of the entire correspondence, with the facts reported, the committee are of opinion, First, That with regular chemists and druggists proper precautions are generally adopted, and very few accidents occur. Second, That the unrestricted sale of poisons in general by unqualified persons is the great source of danger. Third, That the total prohibition of the sale of arsenic is impracticable and inconsistent with the requirements of legitimate trade." That was the decision upon which the Arsenic Act was founded.

106. Were those the resolutions of the Council of the Pharmaceutical Society?
Those were the resolutions of the Committee of the Pharmacuetical Society; and the evidence which we received led us to the belief that any legislation would be useless which allowed poisons of every description to be sold and medicines to be dispensed at every chandler's establishment in the kingdom. This Bill, for example, prohibits the sale of poison to any person under age, but it offers no obstruction to the sale of poison by a boy of 15 or by a man of any age, who may be even worse than an intelligent boy, from being totally ignorant of the substances which he is dealing with. There is no provision whatever made for guarding the public against that which is the principal danger in existence. I have heard of a case which occurred a few weeks ago, in which a chemist's business being for sale, it was bought by a saddler, and the saddler gave an extra sum for it upon condition that all the medicines were to be labelled in English, as he was totally ignorant of medicine. While such evils as that are permitted without the slightest interference, we consider that the idea of laying down the law to chemists as to how they are to label their bottles, is entirely futile and useless. As an example of that, I may mention that in this Bill we are directed as to the particular kind of labels which we are to use. Now I have just pasted into this paper a few of the labels already in use, which would be all of them inconsistent with the terms of this Act, and yet we conceive that they are perfectly sufficient for the purpose. Again, in labelling articles in the cellar, that kind of label would be inapplicable; we have, for example, wooden labels.

107. Are not we rather going back? You gave some valuable evidence the other day on certain details of this Bill as to the form of the bottles and labels and other points of that sort. What we wish now is, to have your general view of what would be desirable for the object proposed?
It has always been our opinion that this Bill, whether entire or in any way in which it may be amended, is a very partial, and will be a very ineffectual remedy for the evil, but the object which we have had in view in revising it has been to make it unobjectionable. It may satisfy the public in some degree to know that a Poison Bill has been introduced, and we have wished to make it unobjectionable.

108. Earl of *Derby*.] Without reference to its being efficient?
To make it as efficient as such a Bill can be, but at the same time to remove the objectionable provisions in the Bill. We do not desire any limitation in the number of persons who sell poisons, but we only desire that those who do sell them shall understand what is the nature of the substances which they sell.

109. *Chairman*.] As far as I understand you, you think that this Bill, whether amended or not, is not a good one for the purpose for which it has been intended, and although by amendments you might make it less objectionable on some points which you state, yet you do not recommend it as an efficient piece of legislation for the purpose proposed?
Certainly, that is precisely our opinion.

110. Will you state what other remedy you think might be available, or whether you think that we are entirely without remedy at all?
In order to answer that question fully, it would be almost necessary to bring the draft of a Bill in my hand, which we certainly are not prepared to do at present, not knowing whether our views would be entertained at all by the Committee.

111. I think the Committee would not require you to have a Bill drawn up, but having considered the subject, you are probably able to state the general

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general principles on which you would propose that such a Bill should be drawn?

In general terms I may state, that our committee consider that if any law is to be passed on the subject, it ought to refer chiefly to the persons who sell the poison, and that it ought to make provision for these persons understanding something of the business which they undertake. As at present there is absolute free trade in poisons, and in medicines generally, we consider that the first step to be taken is to commence a register of all persons at present dealing in poisons, and to enact a law that in future no unregistered person shall be permitted to sell certain classes of medicines, which might be enumerated in a Schedule of Poisons; and that, after a certain date, all persons dealing in these substances, and dispensing prescriptions for the sick, shall be required to pass an examination, either at some medical institution, or the examination of the Pharmaceutical Society. That we consider would be the most efficient security to the public against accidents from poison, and against criminal poisoning also. There are certain restrictions in the Bill which may be beneficial, with regard to the labelling of every substance which is to be used externally; those provisions we have left in the Bill unaltered; and it might be desirable to have some means of adding to the Schedule from time to time, in the event of any other poison being found to be practically in use for criminal purposes. But with regard to that subject, it would be more satisfactory to us if any additions to the Schedule, supposing such a Schedule to exist in a Bill of this description, were to be made with the concurrence of the Royal College of Physicians, they being more acquainted with medicine than it would be supposed that any Members of the Legislature are, and it would be a satisfaction that any proposition of that sort should be brought forward with their approval.

112. Earl of *Derby*.] Am I to understand that you think that, supposing there were the condition of putting certain labels upon certain poisons, there should be no restriction as to the practice of the persons who sold poison, but only a restriction upon the persons admitted to sell poison; that once admitted, there should be no restriction except that of putting certain labels?

There are certain restrictions left in the Bill, as we have altered it. Of the two principles, we consider that the principle of attending to the qualifications of the persons who sell poisons, is far more important for the security of the public, than the regulations introduced in reference to the sale and keeping of them.

113. Duke of *Somerset*.] I understand that the first step which you propose, is to register all persons throughout the country who deal in poison, whether chemists, grocers, or any others?

I would register them under the name of "Registered Druggists."

114. Having compelled them all to register, I understand that the next step which you would take, would be, that after a certain date all persons so selling should be compelled to pass an examination?

Yes. All future persons, all those who enter the trade of a chemist after a future date, should be pharmaceutical chemists.

115. But supposing that next year so many thousand people registered through England, you would, until the termination of their natural lives, allow them to go on without any examination, however ignorant they might be?

At present the law gives them unlimited power.

116. I am asking you what step you sketch forth to the Committee as your view?

There might be some restrictions placed upon them; but we consider that the medical profession and the pharmaceutical profession should be exempted from some restrictions, which might be very properly imposed with reference to ignorant persons.

117. When you had allowed all these persons to register, the difficulty of dealing with them would be greater, would it not, because they would have a claim

claim having registered, and being allowed to register; how would you proceed with those people?

They would still be subject to any restrictions which might be placed upon them.

118. Lord *Rossie.*] You consider that those who are already practising at the time when the Bill passes, have, as it were, a vested interest, and you do not propose to interfere with their practice?

I think there would be no reason why they should not be under the same restrictions with regard to the manner in which they label their goods; and with regard to the entry of the names and addresses of the persons purchasing certain poisons, in the manner which is prescribed in the Arsenic Act.

119. Duke of *Somerset.*] What would be the use of a mere register of names of persons throughout the country dealing in poisons?

It would be the commencement of the system of restricting the sale of poisons to persons who are educated.

120. But would you refuse the register to any one who applied?

Each person should give evidence that he had been in business as a chemist and druggist previously to the date of the Act.

121. Earl of *Hardwicke.*] Then afterwards you would take examinations?

Then after that we should require that they should pass an examination.

122. How would you deal with the apothecaries in this case?

They would be a privileged class; they would be exempt.

123. Like the physician?

The same as a physician.

124. Exempt altogether?

Yes.

125. If this Bill had passed as it now stands, what effect would it have had upon the apothecaries' business?

It would have had no effect, because they are entirely exempted from it.

126. Would it have thrown a great trade into their hands?

It is probable that might indirectly have affected them in that way.

127. Lord *Talbot de Malahide.*] Supposing that the Committee was not prepared to recommend, or Parliament to adopt, the course which you suggest with respect to having a register of all parties selling poisons or drugs, do you think that it would be a proper thing, in the first instance, to confine the sale of poisons to the superior class of chemists at present in practice, who go through the examination which you described to us the other day, and not to make it a matter of course that any individual who has been in the habit of poisoning the world should be allowed to do so in future?

I think that the public would derive benefit from such a regulation as that; but we should consider it rather a delicate matter to recommend it, inasmuch as we should be suspected of doing so for our own interest; but it must be seen to be a fact that any privilege which may be given to an educated class offers a premium to persons to become educated.

128. Lord *Rossie.*] You stated the other day that you had no means of obtaining, at this moment, sufficient assistants duly qualified to administer medicine?

The whole trade cannot do so certainly, because it is a work of years. Even if we had a compulsory Act of Parliament, it would be a work of years to educate a class of assistants to supply the public throughout the kingdom; and when we see that every obstacle was thrown in our way, even in obtaining a permissive Act of Parliament, I consider that we have effected an immense amount of public good, considering that it is entirely a voluntary association, much more than any other branch connected with the medical profession within that period of time.

129. Lord *Talbot de Malahide.*] Are there any other pharmaceutical societies

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in the country, with objects similar to those which you describe your society to have, namely, to encourage members to go through a voluntary examination?

There are no other societies of that sort, excepting those which are in communication with us, as branches of the Pharmaceutical Society.

130. They are all branches of your society?

They are. There are two or three auxiliary societies merely for education; but they all recommend their students, when educated, to come up to our examination; consequently we are all in harmony with each other throughout the kingdom, in England and in Scotland.

131. Duke of *Somerset*.] Assuming that some one has passed an examination in the Pharmaceutical Society, what security have the public when he sells drugs, inasmuch as his shopman, or the person who is attending and assisting in his shop, may never have passed any examination at all?

His professional responsibility is at stake in the persons whom he employs.

132. You say that he cannot get skilful assistants?

The entire body of chemists throughout the kingdom cannot do so; each one gets the best he can.

133. But, practically, they do get very ignorant persons to assist them?

Sometimes they do; there is no doubt about it.

134. What security, then, will the examination of the head of the establishment give when he employs under him other people whom he must employ who have not had that examination?

There is a minor examination for assistants, and we are by degrees introducing regulations among ourselves not to take any young men who have not passed this minor examination.

135. Then in the course of time when this examination has gone on for some years,—25 years or so,—we may hope that there may be a sufficient number of assistants to chemists to prevent the public being poisoned?

In the couse of five or six years there would be a very good supply if there were power by Act of Parliament to make it compulsory; but so long as it is a voluntary association altogether, the young men naturally ask this question: "Supposing I take this trouble to go to a school of chemistry, and spend a great deal of money and time in educating myself, and come up to this disagreeable ordeal, namely, the examination, am I to get a corresponding advantage?" The answer at present is, "You get no advantage except merely the title of pharmaceutical chemist." And many young men say, "What is the use of that? it is not sufficient to make it worth my while to take the trouble." But if the Legislature would add to that some tangible privilege, such as the sale of a certain class of medicines which ignorant persons would be prohibited from selling, then these young men would see directly an advantage in coming forward, and going to school and educating themselves, and by that means the public would be provided in the course of a few years with educated men. Otherwise we are pulling against the stream, and no one has the least idea of the difficulties which we have to contend with in persuading young men to come up; and when they come up, unfit to pass the examination, we have even then no power over them; but a young man who is plucked, from being totally ignorant, may commence business the next day, and say that the Pharmaceutical Society is a mere sham, which sometimes they have done, simply because they were not able to pass.

136. Earl of *Derby*.] Do not poisons, or medicines which, in certain quantities, would be poisonous, form so large a proportion of the stock of every chemist, that a prohibition from selling all which may be considered as poisons would be an absolute prohibition from exercising the business of a chemist at all?

It would almost be a prohibition.

137. Then, in point of fact, what you suggest is a register, an examination, and a licence for carrying on the business of a chemist?

Yes, it would come to that in the course of time. The liberty given would be

be merely allowing a chandler in a country town, where there was probably no druggist, to keep a few simple drugs, such as salts, senna, rhubarb, and magnesia, which could do no harm; and there could be no reason why such persons should not have that privilege.

138. *Chairman.*] Can you state what effect has been given to that regulation which exists among yourselves not to take any but examined apprentices?

I believe it is practised to the full extent of the existence of the supply. If we can possibly obtain assistants who have been examined, we take them in preference to others.

139. Earl of *Derby.*] That is to say, you take a qualified assistant in preference to an unqualified one?

Yes.

140. But if you cannot get a qualified one, you take an unqualified one?

In that case we take the best we can, and put him in a subordinate situation until he is qualified, but not entrusting him with any responsible duty until he has convinced us that he sufficiently understands his business. It is in that way that all apprentices are taught the business; they are taught first to weigh, and to fold, and to measure different substances, and then they are taught to mix compounds which are easily made; and they do it all under the eye of a person who understands it. In the course of a few years they learn sufficient of the business to be entrusted with prescriptions.

141. *Chairman.*] But practically at this time, even among the members of the Pharmaceutical Society (I am not speaking now of the large chemists in London), a great proportion of the assistants are men who have not received that education, or been subjected to that examination?

A considerable number have not been examined, but there is a very increasing desire for information among the assistants, and many of them are endeavouring to qualify themselves by private study; we have an extensive correspondence on the subject from young men, continually asking what books they ought to read. Since the Pharmaceutical Society has been in existence it has caused an entire revolution among the young men, and a very considerable improvement.

142. Lord *Talbot de Malahide.*] Do you consider that the existing law on the subject of druggists is the main cause of your finding a difficulty in procuring proper assistants?

I think that is one difficulty.

143. Not holding out sufficient inducement?

There is not sufficient inducement to them to come forward and to pass the examination; it may probably cost a young man 100 *l.* to qualify himself for the examination, to go through a complete course of study, and if he is to gain nothing by it but a mere name, he says, and his parents say, "What is the use of spending so much money?" The whole of the apprenticeship is an education: during the whole of the time that the pupil is under the care of his master he is being taught the various manipulations of the shop, but the scientific education for the business which is taught at a practical school and at lectures is something beyond the ordinary education of an apprentice.

144. Duke of *Somerset.*] The evidence which you have now given us amounts to this: your scheme, when it came into full operation, would tend to prevent poisoning by the ignorance of the shopkeeper, or of the shopkeeper's assistant; but what precaution would you adopt to prevent or to diminish the obtaining of poison by people who intend to use it for bad purposes; you have given none in your scheme; is there any means of doing so?

There is an attempt at that protection in the Arsenic Act, by requiring persons who are unknown to the vendor to produce a witness or some evidence, and to sign their names in a book.

145. Do you mean that you would apply that to every poison?

No, I think that it would be impracticable to apply it to every poison?

146. Then is there any suggestion which you can offer to the Committee for the purpose of preventing intentional poisoning by evil designing persons?

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I do not know any positive method of preventing it. If you prevent the sale of poison, you might as well prevent persons selling cutlery and ropes.

147. Could you keep a record of the names of persons to whom poison is sold?
I believe that with respect to certain poisons, there is an advantage in obliging persons to keep a record of the names, but it would only be with reference to poisons which are occasionally used for criminal purposes. If you publish a large list of poisons, you are only giving the public information, and instructing the criminal.

148. Are we to understand that you think, that with regard to a limited number of poisons, a record of the names of persons to whom poison is sold should be kept?
I see no objection to it at all.

149. Do you think it would be an advantage, while you leave so many poisons without such a record?
It seems to be impossible to include the whole list of poisons, and all the precaution that can be taken must only be an approximation to safety, and selecting such poisons as are most capable of being used, or likely to be used, for criminal purposes; and those we select from experience. With regard to opium, it appears very questionable whether that ought to be introduced. We have struck it out of the schedule as being a substance coming under the same category as tobacco. It is a medical question whether persons ought to be permitted to take opium or not. In many places they take it partly medicinally, but partly as a habit; and we insist upon their taking it in China, although the Chinese object to it. Therefore it becomes a question whether it ought to be included in a schedule of poisons or not.

150. *Chairman.*] Do you believe it to be a fact that two-fifths of the poisonings which take place arise from opium?
I have no statistical evidence to enable me to answer the question, but I should think not nearly so much as that.

151. Intentional and unintentional poisonings?
I should think not nearly so much as that. Formerly it was considered that arsenic was the principal source of poisoning, but I believe that it has greatly diminished since the passing of the Arsenic Act. But then arsenic is a very peculiar substance—*sui generis*. There is no other substance which can be classed with it in that respect. It was formerly the fashionable vermin-poison used by the public, and bought habitually by the pennyworth. It was almost impossible to watch the use of it; it could be sprinkled into tea or gruel, or anything else, and it had no taste or smell. Under these circumstances the facility of purchase gave great facility for crime. Now the Arsenic Act has thrown difficulty in the way of the purchase, and consequently, as far as arsenic is concerned, although that Act has been attended with some inconvenience, it has done a certain amount of good. But I am not aware of any other substance which is ever used for criminal poisoning that would be applicable to all the regulations to which arsenic is applicable—I more especially allude to the addition of colour.

152. Lord *Rossie.*] Then you think that the throwing of difficulties in the way of procuring poison is some security against poisoning?
It is some security.

153 Earl of *Hardwicke.*] Supposing that an Act could be passed which would be so very stringent as to deal effectually with the chemists as the vendors of poison, have you ever considered in what state the public would be in reference to another very large class of the community, who could vend poison if they liked, namely, manufacturers of all classes, who use large quantities of poison?
That is one of the difficulties of legislating on the subject. It is absolutely necessary, in any Act which may be passed, to exempt certain classes of persons, who are enumerated in the 11th section of this Bill; and under those circumstances it would be very difficult to make any Act effectual.

154. Then would it not be necessary to place in such a Bill very heavy penalties

penalties upon manufacturers who vended poisons in small quantities for any purposes?

Poisons are often bought by persons who do work at home, and they require poison, such as corrosive sublimate, by the ounce, to do their work at home, and they take their work, and receive payment when it is finished.

155. Corrosive sublimate is a very dangerous poison, is it not?

A very dangerous poison; three grains might kill a man.

156. And it would be impossible for the bronzer, or the manufacturer in brass, to carry on his trade without having a sufficient supply of corrosive sublimate.

Entirely impossible, I believe.

157. The artisans who work in bronze works, many of them in their room, in a small apartment, purchase this article in small quantities; they do not work always in the manufactory?

That is frequently the case.

158. Marquess of *Salisbury*.] Is there not, in almost every manufactory, the necessity of using some species of poison, either for colouring, or for cleansing, or for other purposes?

Yes; in a great many manufactories there are substances of a poisonous nature which are used for such purposes; but in reference to a subject of this sort, it is necessary to take evidence in different districts. For example, in Birmingham there are classes of substances continually sold among the public which in London are not so often used; and so in the manufacturing districts, in Manchester and that neighbourhood, there are other substances which are in continual use. It is necessary to obtain evidence, and that is the reason why we, in reference to the Arsenic Act, issued the list of questions which I hold in my hand; and similar questions on any subject relating to poisoning ought to be issued before any Act is passed which would affect a large branch of trade.

159. Referring to the list which you have just mentioned, have you the answers to the question, "For what trades or manufactures is arsenic required by your customers in small quantities?"

The principal purchasers of arsenic are colour and chemical manufacturers, farmers, flockmasters, veterinary surgeons, shipwrights, glass-manufacturers, candle-makers, and dyers; these employ it largely; but the smaller, or retail quantities are demanded by braziers, whitesmiths, bird-stuffers, gamekeepers, gardeners, grooms, whitewashers, painters, firework-makers, and by rat-catchers, housekeepers, and others of all classes, for the destruction of vermin of all kinds.

160. Can you state what were the replies to the question, "Is it sold by oilmen, grocers, and general dealers?"

That was generally answered in the affirmative.

161. "Would the prohibition of its retail sale be desirable?"

There were 401 persons in the country, and 108 in London, of the persons with whom we communicated, who considered that the entire prohibition was desirable, and 209 persons in the country were in favour of restrictions, but not of entire prohibition.

162. Could you put in the number of poisonings by arsenic which were returned to this paper?

I am not in possession of that return at this moment; but on reference to the papers, I might possibly obtain some information upon it.

163. Are you aware that arsenic is necessary from its use in agricultural purposes?

It was the opinion of many of the persons with whom we communicated that it was required for some agricultural purposes; for steeping wheat, and also for killing vermin, and for dipping sheep. The number of circulars which we sent out was 1,600; 1,240 in the country, and 360 in London, and the number of persons who answered was 853 in the country, and 140 in London. Of course it is rather difficult among so many answers to collect and to tabu-

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late precisely the entire particulars. The questions were confined to the members of the Pharmaceutical Society; they were chiefly sent to those who were supposed to be likely to take the trouble to answer questions of that sort.

164. *Chairman.*] I understand that the gentlemen present concur generally with what Mr. Jacob Bell has stated?

(Mr. *Morson.*) We do.

165. Earl of *Derby.*] Are we to understand that the whole of the gentlemen present concur with the general principle, that the course of legislation ought to be registration of all persons permitted to sell poisons, and restriction upon all other persons selling any poisons?

(Mr. *Morson.*) I should think that that is the general opinion amongst the whole of us, that the only security which can be given is by educating and licensing persons who are permitted to sell certain poisons. It is a subject of extreme difficulty.

166. *Chairman.*] Then, according to your present views, although you think that a great improvement might be effected gradually by the scheme which you propose, you think that no legislative scheme which should have an immediate effect is possible for meeting the evil of which the public have lately complained, viz., the prevalence of intentional and unintentional poisonings?

We think, that though any remedy would be very partial in its effect, still some good might possibly be done by a measure which would not do everything that was expected from it. It was with that view that we amended this Bill, considering that so amended it might effect some good, and that it would be, as far as we know, unobjectionable. Of course we cannot be responsible for what the public might say when printed and circulated in different parts of the country. Other chemists might say that it was even too stringent as altered by us; but in our opinion, as it is, it would be unobjectionable.

167. I think that by this Bill you propose that the members of the Pharmaceutical Society should not be subject even to the restricted regulations which are there enforced?

We have inserted that provision; but of course, if the restrictions were reduced to a very small amount, we should have no objection to be subjected to them. If, on the other hand, the restrictions were retained, it would become necessary that you should exempt a class of persons who understand the business, and who have a great deal of dispensing of medicine. It would be exceedingly inconvenient to them, as well as to the public, for them to be restricted to the extent which was originally proposed in the Bill.

168. Lord *Wensleydale.*] Have you made any inquiry respecting the restrictions which prevail in Prussia, which are very strict indeed, upon the subject of all poisons?

(Mr. *Squire.*) We have, and the restrictions in Prussia are correspondent with the education there. They take great care that men shall undergo a severe examination, and that they shall be duly licensed by the Government.

169. Besides that, they are extremely strict in the custody of poisonous drugs which are to be sold, and there are great restrictions upon the sale of them, besides the better education of the chemist?

That is so, and they have two classes of men there, the first and second class men, and they always give a first-class man the privilege of opening an establishment where they think one desirable.

170. Have you ascertained whether, in consequence of the precautions which they take, both in point of education and in point of the custody of the drugs, and the mode of selling them, few poisonings occur in Prussia or not?

That is the chief guarantee, the generally educated state of the men.

171. And very few poisonings do occur there?

Very few occur, I believe.

172. Are you not of opinion that the restrictions which are imposed upon the sale of poisons are of very considerable efficacy for that purpose?

No doubt they are. Would it be practicable that your Lordships should append

append to the altered Bill a rider, with regard to registration, if that Bill should meet with approval.

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173. Earl of *Derby*.] The registration is not introduced at all in the Bill as you have proposed to amend it?

No. It is a question whether your Lordships like to commence that operation now.

174. *Chairman* (to Mr. *Bell*).] You were proposing to give some information about the labels; the Committee would like to hear what you have to state upon that subject?

I was observing that the same kind of label will not answer for all purposes; some substances, liquids, for example, act upon the labels, and it is necessary to engrave them upon the bottle in this way (*producing a bottle*). According to the Bill, if it passed in its original form, a man would be liable to a penalty for having this engraved label, whereas a paper one would be destroyed almost immediately. The same with regard to bottles containing infusions, which are wanted continually; a tin label is very often used, and in other cases a wooden one painted (*exhibiting the same*). But these are matters of detail which chemists, who understand their business, know without being directed in an Act of Parliament.

175. Lord *Wensleydale*.] The Bill requires the word "poison" to be cast or moulded in raised letters on the glass?

On that subject I have had a communication from Dr. Maclagan, of Edinburgh, who is exceedingly anxious that this provision should not be introduced, as he says that it would affect dispensaries.

176. But it obviates your objection as to the poisonous substance taking off the label?

Yes, it would answer the same purpose. I was remarking that Dr. Maclagan observes that this would interfere with dispensaries where the patients are required to bring the bottle; and, as he says, it would be very hard upon a patient to deprive him of his liniment because his bottle happened not to be a square one. It would also, as I said before, be impossible to oblige persons always to use the right sort of bottle merely for poison; they would use the bottle for any purpose for which they happened to require it. As a triangular bottle was mentioned on the previous occasion, I have brought a specimen here, respecting which I spoke to the proprietor of it, telling him that it was suggested to use triangular bottles for poison; the answer was, "You cannot use mine, it is registered;" and it is for some particular kind of fish sauce. Then square bottles for poisonous substances are also suggested as a safeguard. Now this is a bottle which is used by one of the largest houses in London in dispensing prescriptions for mixtures (*producing a bottle*), and it is graduated so as to divide the mixture into doses. There are various forms of bottle used indiscriminately for every kind of purpose; and consequently it would be an impossibility to restrict the sale of poisonous substances to bottles of any particular kind. Here is one which is used for essence of peppermint, which, according to the definition in the Bill, feels like a poison bottle, inasmuch as the letters are embossed, and it is a square bottle.

177. *Chairman*.] But supposing it conduced to the safety of the public that poison should be sold in peculiarly shaped bottles, would not the interest of patentees and others prevent their continuing to sell their innocent medicines in a bottle which the public would consider to indicate poison?

If it would conduce to the safety of the public, any inconvenience might be submitted to. But in practice we know, that as soon as bottles are done with, they are sent to the old bottle shop, and then they are sold at a very reduced price to the poor, and when the poor require a bottle for any purpose, they are not very particular what shape it is. Consequently, the distinction would be utterley impracticable; after the sale of the poison, the distinction would no longer be observed.—(Mr. *Bird*.) I may observe, that I have been in business for upwards of thirty years, in rather a low locality, and bottles of all kinds are brought dirty and clean. Sometimes we are obliged to investigate the bottle before we put the article into it, or we should do a great deal of mischief, and

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then we label it. I frequently put on two labels, and sometimes three, so that no accident shall happen. People bring any kind of bottle, and such I dare say would be the case with this poison bottle; they would take it to my shop to have some syrup of poppies, or any little innocent thing put in; it would be brought with the word "poison" upon it, and taken home, and it would become a very common bottle, as common as anything could be. A great many articles in the Schedule would exclude my business altogether; they are things that I have sold for years to people, who do not know that they are poisons, but they go out with a proper label.

178. Allusion has been made to an objection which was taken by a physician in Edinburgh with regard to the dispensaries, the rule obliging patients to come with their own bottles. Is it usual in dispensaries to give poison without any medical prescription?

(Mr. *Bell.*) Not without a prescription.

179. In that case, would not the objection entirely fall to the ground under this Bill?

If the bottles were used indiscriminately in dispensaries for medicines taken internally, and for those for external use containing poisons, the distinction would be of no use whatever, because the public would see that the bottles were used indiscriminately.

180. I understood that the objection, as you stated it, coming from the Edinburgh physician, was, that this regulation could not be enforced of selling poison in peculiarly shaped bottles, because the regulations of the dispensary obliged the patient himself to bring his own bottle; I then asked with regard to that, whether the dispensaries gave poisons without a medical prescription. You said that they did not. There being a medical prescription, there is no regulation under this Act applicable?

Then the rule of putting poisonous substances in bottles reputed unsafe would be broken; assuming that the public have been taught by the Act that a square bottle is dangerous, and that a round bottle is safe, the patient goes to the dispensary with a round bottle, he not having a square one, and his lotion is put into it; he has been taught by the Act that anything in a round bottle is safe to drink, and he goes home and drinks his lotion; that would be the effect of that regulation.

181. Earl of *Hardwicke.*] How would you deal with certain medicines which are dispensed frequently where the same medicine is taken internally and used externally?

That would cause another difficulty; tincture of opium, for example, is frequently taken with many other poisonous substances in the form of drops; a small bottle may be ordered, of which 20 drops are taken for a dose; this would be quite as dangerous, if the whole bottleful was swallowed, as any lotion or liniment could possibly be, and yet it does not come under the definition of the Act as a medicine for external use, because it is taken internally.

182. *Chairman.*] Is not your practice rather at variance with your theory in this respect, and do not you put lotions into blue bottles in order to prevent the patients drinking them?

Of certain sizes where it can be done, and more particularly where the application is about the size of a draught; it is in those cases where mistakes are likely to arise; but when you come to pint bottles, and bottles of a large size, the expense of that kind of glass is much greater, and it would be an obstacle to the general use of it.

183. That may be an additional inconvenience, but it has nothing to do with the question of giving erroneous education to the public as to what is safe and what is unsafe. You object to our Bill because it educates people to believe that round bottles are safe; you at the same time serve external lotions in blue bottles, and you educate people to consider that external lotions in white bottles are perfectly safe?

We do not instruct persons that anything in a bottle not blue is safe to drink: what we inculcate is this, that they must read the label in every case; that if they do not they are responsible. For their convenience, where a draught

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and a liniment are of the same size, we put the liniment in a blue bottle; but it is for their convenience; we say, "You must read the label, or you are responsible."

184. Earl of *Hardwicke.*] Do you not also paste on the outside, "For external use"?

Yes, or "Not to be taken."

185. *Chairman.*] For the safety and convenience of the public, you resort to certain external signs, in order to distinguish deleterious from innocent mixtures?

We have endeavoured to do it; we have been for years trying the experiment, and experience has taught us that it is only to a very limited extent that it is of any use.

186. But still sufficiently useful to induce you to continue the practice?

So far as it is practicable, but it is only to a very small extent that it is so; some persons have different methods of making a distinction. Mr. Squire's plan is to distinguish his lotions with green labels.—(Mr. *Deane.*) I should like to suggest what I believe would be the opinion of all present, that there would be no serious objection to a clause preventing young persons under a specified age, say 18, from selling the poisons pointed out in the amended Schedule now handed in.

The Witnesses are directed to withdraw.

Ordered, That this Committee be adjourned till Monday next, half-past Three o'clock.

Die Lunæ, 15° *Junii* 1857.

LORDS PRESENT:

Lord President.	Lord Ponsonby.
Duke of Somerset.	Lord Rossie.
Marquess of Salisbury.	Lord Wensleydale.
Earl of Derby.	Lord Talbot de Malahide.

THE LORD PRESIDENT in the Chair.

Mr. JOHN ABRAHAM and Mr. JOHN BAKER EDWARDS, are called in, and examined as follows:

187. *Chairman* (to Mr. *Abraham*).] WILL you state in what capacity you appear here?

We are deputed by the Liverpool Chemists' Association to state the grounds upon which they have petitioned your Lordships against the Bill on the Sale of Poisons.

188. Are you and Mr. Edwards both chemists?

We are both pharmaceutical chemists.

189. You have probably considered the general practice with regard to the sale of poisons at present?

Yes.

190. Do you consider that that system is one that requires any amendment?

I am not sanguine that legislation can do much towards preventing poisoning; but I am of opinion that if anything can be done, it can only be by restricting the sale of poisons to competent persons, that is, persons of good character, and who understand the nature of drugs and chemicals.

191. Perhaps, in the first instance, you will be good enough to state to the Committee your objections to the different details of the proposed Bill?

I will endeavour to do so; I am of opinion that the Bill has a direct tendency to throw the sale of poisons into the hands of a very low class of shopkeepers, dealers in gingerbread, in fact. I am of opinion that the difficulties imposed by this Bill in the way of obtaining poisons are such as would prevent the most respectable chemists from selling them, except in a few instances; and as any person is by this Bill allowed to sell poisons, I apprehend that poisons would be supplied by the class of tradesmen whom I have mentioned, who would disobey the law, and who would risk any penalties which the law could impose; and I am also of opinion that the Bill would have a direct tendency to increase the quantities sold in other cases to persons of a superior description. The difficulties placed by the Bill in the way of obtaining poisons are such that I think a great many persons would take the first opportunity of providing themselves with a supply. In many cases these parties would keep those dangerous articles without proper care; servants and younger members of the household would have access to them. At present, no respectable person is refused by his chemist any supply which he wishes, and he consequently asks for no more than he requires; but I am of opinion that if this Bill passes, persons will supply themselves with much larger quantities, in order that they may have a supply when needed.

 192. You

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192. You are acquainted with the provisions of the Arsenic Bill?
I am.

193. That Bill contains several restrictions upon the sale of arsenic, does not it?
Yes. I think they are very judicious, and I should like, if possible, to enforce the Arsenic Act even further; I have always obeyed it, and have been glad, sometimes, to escape the responsibility of selling arsenic in consequence of the restrictions of that Bill.

194. You do not think that, so far as those regulations go, they have had the effect of driving the sale of poisons into the hands of a lower class of dealers, or have induced the public to take large quantities, more than they want for their own use?
I cannot say that I have any evidence to show that such has been the case, but it would not much surprise me to find that in some cases it has been so, because one regulation of the Arsenic Act, which is also introduced into this Bill, providing that it shall only be sold uncoloured, in large quantities, has a most direct tendency to induce people to take more than they want.

195. Lord *Rossie.*] You say that so far as the Arsenic Bill goes, you think that Act has operated beneficially?
With the exception of the provision that not less than ten pounds is to be sold uncoloured.

196. Are there any other poisons which you think might fairly and properly be brought under the provisions which are contained in the Arsenic Act?
I think there are.

197. Have you a list of those poisons which you think might be legislated for in the same manner as in the Arsenic Bill?
The following are the poisons to which, I think, the provisions of the Arsenic Act might be applied:

Arsenic.
Corrosive sublimate.
The poisonous vegetable alkaloids.
Prussic acid.
Cyanides of potassium, mercury and silver.
Essential oil of bitter almonds.
Belladonna.
Hemlock.
Aconite.
Foxglove.
Savin.

There are very few cases, I apprehend, which would admit of corrosive sublimate being coloured. I am told that chloride of antimony and coculus Indicus are used by farmers, and that the latter is also used for ringworm.

198. *Chairman.*] Do you find that corrosive sublimate is a substance which is often used noxiously?
No, not much; it is asked for for the purpose of destroying caterpillars and vermin.

199. It is a most deadly poison, is it not?
Exceedingly; it is a thing that I have very seldom sold.

200. From no demand having been made for it?
Yes.

201. Duke of *Somerset.*] Is it not used in any trade?
It is; but it has not happened that I have been frequently asked for it for any purposes of business, though it is important in some branches of business.

202. Marquess of *Salisbury.*] When persons use it in trade, they would probably purchase it wholesale?
I rather think not, but I cannot speak upon the point with confidence.

203. Lord *Rossie.*] Are there any other poisons which you think might be included?

I think the essential oil of bitter almonds ought not to be sold undiluted, because the only purpose for which it is required is either as a perfume, or for flavouring articles of cookery; and in either case it might, without much disadvantage, be mixed.

204. Will you follow the list contained in the schedule, and state your opinion with reference to the several articles mentioned in it?

The poisonous vegetable alkaloids I should think it very wrong to sell without good reasons; I do not know many occasions on which I have occasion to sell vegetable alkaloids unmixed.

205. What have you to say about prussic acid?

Prussic acid I have never sold unmixed, except in a very few instances, in which I have sold it to destroy dogs and cats. Cyanide of potassium is not an article much in demand with me; that of mercury and of silver not at all. Chloride of zinc is most extensively in demand, in the form of Burnett's disinfecting solution. I have known of one fatal case from its use: a bottle of it was standing upon a lady's dressing-table, and she took it up instead of a bottle of Dinneford's solution of magnesia, and she died from the effects of it.

206. *Chairman.*] Was that prepared according to Sir William Burnett's recipe?

It is prepared in his name, and, I presume, under his direction. It is a very strong solution of chloride of zinc, and is a valuable disinfectant: it is ordered to be taken out in large quantities in all emigrant ships, and in many other ships also.

207. Duke of *Somerset.*] Is it an article upon the sale of which you would put a restriction?

I do not know that that could be done without preventing its useful and very important application.

208. Lord *Rossie.*] You are aware that all persons using it in trade are exempted if they can get it?

Yes; but it is required by private persons to remove odours; it is also used constantly in sick rooms; it is supposed to be disinfectant.

209. Marquess of *Salisbury.*] You said that it was taken out in emigrant ships?

It is, in large quantities.

210. And in other vessels also?

I believe that every vessel fitted up under the Merchant Seamen's Act carries a considerable quantity of it. Then the next article in the schedule is chloride of antimony: I do not think that that is an article of much use, except to veterinary surgeons. At the same time it is an article in common demand for the purpose of mixing with oil to clean furniture; I really do not know that it is of any value for that purpose; and I should think it no hardship to prohibit its use for such purpose if any advantage were to be gained. I never knew it taken as a poison, either accidentally or otherwise.

211. Duke of *Somerset.*] You would propose that the sale of chloride of antimony should be restricted?

I do not know any reason for it, because I never knew an accident happen from the sale of it, and therefore I think it is useless attempting to restrict it. If I am not correctly informed, I see no hardship in restricting its sale. With respect to cantharides, I can only say, that I never sold cantharides themselves, except to the trade, and I do not think that it is an article that should be sold. I see no objection to a restriction upon its sale.

212. Marquess of *Salisbury.*] Is not it used very largely by veterinary surgeons?

Yes, for the purpose of blistering; that use does not come within the provisions of the Act; it is excepted; but with respect to the tincture of cantharides, it is in constant demand for hair-washes; it is a useful application with other substances for preventing the falling off of the hair.

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213. *Chairman.*] Is it poisonous in that form?
I never knew it mixed in such a quantity as to be dangerous; I never knew any accident arise from its use in such a form. Belladonna and its preparations are not in popular demand. I think I never use them, except in prescriptions, though belladonna has the property of dilating the pupil; and I think I have known a case in which a person was accustomed to use it, but doubtless he had a prescription for it originally. I do not think that there would be any hardship in imposing a restriction with regard to the sale of it; but I do not remember any case of poisoning by its purchase which would be affected by this Bill.

214. Lord *Rossie.*] What do you say with regard to hemlock?
Hemlock is a thing that we never sell. I think druggists never sell it. We buy it to make preparations.

215. Duke of *Somerset.*] You say that there is no objection to restricting the sale of belladonna, and no objection to restricting the sale of hemlock; but is there any objection, in your opinion, to restricting the sale of preparations from belladonna, and the sale of preparations from hemlock?
I do not know that any public inconvenience would be caused by restricting their sale; but, at the same time, I have said before that I doubt whether any benefit would be derived from so doing. I stated at the outset, that I believe the good qualifications of the vendor to be the most important point, and the only one towards which legislation can do anything.

216. Would this Bill have the effect which you said would result from it, namely, to throw the sale of these poisons into the hands of a low class of dealers?
My observation on that point applies principally to opium and its preparations; but the general tendency of the Bill, I think, also, is of that character.

217. Lord *Rossie.*] Will you take the next article, aconite; would you say the same as to that that you do with regard to hemlock?
Aconite is a very dangerous substance; but it is not in popular demand. The aconitine, which is made from it, is very frequently asked for in the form of ointment; and we certainly hope to be at liberty to supply that.

218. What is your opinion with regard to opium?
Opium is very largely in demand, principally in the forms of laudanum and of paregoric. Its sales are exceedingly numerous in many shops, and in very small quantities.

219. Lord *Wensleydale.*] Is it not also sold in the country very much, in the form of opium?
I believe so; but not with me.

220. Lord *Rossie.*] That is, in a simple form, not in preparation. You think a restriction upon that would be attended with inconvenience?
I am afraid that it might; though it would not be so in the case of persons who are in the habit of coming to me.

221. You would exclude simple opium from any restriction?
I cannot offer a very confident opinion upon that point.

222. Duke of *Somerset.*] What you stated with regard to opium was this, that if opium was put into the Act, it would tend to throw the sale of opium into the hands of a low class of dealers?
I spoke of opium and its preparations, more particularly laudanum and paregoric.

223. Those would be sold by a low class of dealers more largely than by respectable chemists?
I think so, because the demands are in small quantities, in pennyworths and two-pennyworths, by the poor, and those parties could not obtain a certificate; neighbouring shopkeepers of a low class would find that it suited their purpose to keep those articles for their customers, and to supply them in evasion of the law.

224. Then

224. Then that would increase the danger that now arises from the sale of opium?
I think so, very much.

225. You stated that another effect would be, that people would keep stores of poisons; did that answer apply to such a thing as opium?
Yes, and to all others, if there be any in popular use.

226. You stated that the effect of the Bill would be to make people keep stores of those poisons where now they only keep a small quantity?
Yes.

227. *Chairman.*] What do you believe to be the general use to which small doses of laudanum are applied; is it for medicinal purposes?
In many cases it is, and I have no doubt that in many it is very much abused; and if you could prevent a particular class of sales, I think it might be a good thing, but I am afraid that it cannot be done.

228. What class of sales do you refer to?
I believe that there are a large class of purchases for the purpose of administration to children, and as a stimulant to adults.

229. Lord *Rossie.*] You mean as a dram?
Yes.

230. Lord *Wensleydale.*] And to mix with beer?
I am not aware of that.

231. Lord *Rossie.*] Are there any articles included in the schedule to which you would make an exception; do you think that the restriction upon the pure preparation sold would not be so objectionable as opium?
Neither the powder nor the extract of opium are in popular demand, except that people have private formulæ containing those articles which they bring to be made up; I think it would be a great hardship if we could not make up a family recipe containing some of those things.

232. My question applied to those without their preparations, beginning at foxglove down to the end; would there be any hardship in putting a restriction upon the sale of those articles purely, without being in a state of preparation?
Yes. Stramonium is not dangerous; I believe it is not so poisonous as tobacco, and it is in demand for smoking to relieve asthma. Chloroform in small quantities is in constant demand to relieve pain. A considerable quantity is sold, and it is generally sold in small quantities.

233. Earl of *Derby.*] And it is sold not upon the recommendation of any medical man?
Yes; it is asked for popularly. I believe it is quite a mistake to suppose that anybody has ever been robbed by the application of chloroform to produce insensibility. I do not believe it is possible, unless you could take a person and hold him, and apply the chloroform for some time to the nostrils or mouth, to produce any insensibility by means of chloroform.

234. Lord *Wensleydale.*] The general opinion is very different, because the Legislature has actually made it penal to use chloroform for the purpose of producing stupor in order to commit robbery. It was understood at the time the Act was passed that there were a great many instances of the sort?
Yes; it is quite possible it might be done where one or two persons combined to overcome another, and administered chloroform to produce insensibility; in that case they might do what they pleased with the person. I have heard it said that cases have been reported in the newspapers, in which chloroform was said to be administered to persons on the highway in order to rob them. I am not aware that those statements have ever been authenticated; and I do not believe that any person could be robbed in that manner.

235. *Chairman.*] What do you say with regard to oxalic acid and binoxalate of potash?
Oxalic acid is in demand for bleaching purposes, both for boot-tops and also in the making of straw bonnets, though I have not much personal knowledge of it; it is an article in constant demand to remove stains.

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236. Lord *Wensleydale.*] Chloroform, in a limited quantity, might safely be sold; it is generally sold for the tooth-ache in small bottles?
I think it might.

237. Not a sufficient quantity to steep a handkerchief, and stop a man's nostrils?
A small quantity, if applied effectually, would produce insensibility.

238. Earl of *Derby.*] You could sell no quantity which, if intended to be used, would not be dangerous to life if improperly used?
We could scarcely sell any quantity that would be useful that might not be abused, but it would not be dangerous to life. Persons have been kept in a state of insensibility by chloroform for 24 hours without (according to one of our highest authorities) being in any degree the worse for it.

239. Lord *Wensleydale.*] You could not sell safely even that small quantity which is contained in an ordinary chloroform bottle, which is obtained at the chemists for the purpose of assuaging the tooth-ache?
I am afraid not; because when chloroform has been carefully administered, it has been found that a very small quantity will produce insensibility.

240. *Chairman.*] What is your opinion with regard to nux vomica seeds and bark?
I think nux vomica is one of the safest things that you can give to destroy mice; it is a brown powder. There is no danger of its being taken by accident. It could not be administered feloniously to produce poisoning; it would require a considerable quantity. I have known it frequently administered in medicinal doses of 20 grains. It is very bitter, and if given to any person, he would be sensible of it. I much prefer giving it to any person who wants to destroy mice to selling arsenic, and I think putting a restriction upon its sale has a direct tendency to encourage the sale of arsenic.

241. What is your opinion with regard to tartarised antimony?
Tartarised antimony itself is not in popular demand, but it is sometimes wanted to produce immediate vomiting in cases of poisoning. Its solution is the well-known antimonial wine, which is constantly used as an emetic; I never knew it used either suicidally or homicidally, and I do not think that anything is to be gained by prohibiting the sale of the solution of tartar emetic.

242. The next article is cocculus indicus?
I know nothing about cocculus indicus. I have no practical knowledge of its application; I know of no use to which it can be put. I think that if the Legislature were to prohibit its importation altogether it might very likely be a good thing; but I never knew it used either for the purpose of suicidal or homicidal poisoning. I should be very glad if it could be prevented reaching the brewer's hands.

243. The next article is ergot of rye?
I never knew ergot of rye used for any felonious purpose; but I cannot say whether it has been given to produce abortion.

244. Savin is frequently used also to produce abortion?
I think it is; I think no person should sell savin without careful inquiry; I do not know that I ever sold any.

245. Do you consider lobelia a poison?
Decidedly; but in some parts of Lancashire it has been extensively recommended, I think by Dr. Coffin; and I believe that several cases of poisoning have occurred by its use; but many persons have great faith in its virtues, and it is used to relieve asthma both popularly and professionally; it is an exceedingly acrid thing; there is no danger of its being used feloniously. Then, with respect to the prohibition of selling any substances containing any of those things, I think it would be excessively inconvenient; and I ought, I think, to point out that there are many most dangerous poisons which are not included in the schedule to this Bill, some of them more dangerous by far than many which are contained in the schedule. For instance, the preparations of lead, sugar of lead, white lead, and other articles which it is scarcely possible to keep out of the hands of the public.

246. The

246. The first particular provision of the Bill to which the Petition of those whom you represent applies is the 4th clause of the Bill; will you state what your objections are to that clause?

My objection to that clause is partly in connexion with the severe penalties imposed by the Act, because I presume your Lordships intend that this Act should apply to a sale made by an assistant; now if my assistant were to violate this Act you would consider me responsible, and it is proper that I should be fined for it; and if another assistant, some years afterwards, perhaps in violation of my most positive orders, were again to commit a breach of the Act, I should not only be fined, but be totally disabled from carrying on my business. Now I am of opinion, that if additions and alterations in respect to the schedule of this Act are to be frequent, it will scarcely be possible that all the chemists in the country can be acquainted with them; and, in consequence, many persons will unwittingly offend against the Act. Therefore I do think, that the most solemn and the most effectual means ought to be adopted to make known the names of those prohibited articles, and the most deliberate consideration should be given to any additions to them.

247. Lord *Rossie.*] Do you think if an Order in Council was given with the approval of the Royal College of Physicians, it would be an advantage?

Yes.

248. Duke of *Somerset.*] Your objection is, that you will not only have to study the law, but to read all the Gazettes, in order to see what articles are included in the law?

Yes, that is one objection.

249. And a further objection is, that that provision in the first part of the clause is accompanied in the latter part with a heavy penalty in case you omit to do it?

Yes; and besides, there is no provision here that the parties interested shall have an opportunity of being heard before the Privy Council before matters so materially affecting them are introduced. I would say, that the Pharmaceutical Society are a far better body, and far more competent to advise the Privy Council than the College of Physicians.

250. Lord *Rossie.*] Your last objection would be obviated if there were a responsible body on whose advice the Secretary of State would act?

Yes.

251. *Chairman.*] You object to the 5th and 6th clauses of the Bill?

Yes, upon the general ground that if you throw difficulties in the way of obtaining what is extensively in demand, the provisions of the law will be violated by persons of the lowest grade; because, as our Petition mentions to your Lordships, any person may take up the business of a chemist and druggist; and I have been informed (though I am very much surprised to hear it, and I do not know that it is true) that drugs are so commonly sold, that in Leeds there are no less than 1,700 persons who sell drugs; I cannot vouch for the fact, though Dr. Edwards, who is by me, informed me that he had so learned.

252. Duke of *Somerset.*] You approve of the Act as regards arsenic?

Yes, with the exception of the provision with respect to the quantity sold uncoloured.

253. I think the Arsenic Act has a provision, that no person shall sell arsenic to any person who is unknown to the person selling it?

Yes; I do not object to that.

254. Should you object to extending that provision, which now applies to arsenic, equally to any other poisons?

I should have very little objection to it.

255. Do you think there would be any use in it?

I think that to a few of the articles in the schedule, such a provision might be very well applied; for instance, to corrosive sublimate, prussic acid, cyanides of potassium and chloroform even, if there be any foundation for what has been said; but I do not think there is; and it might be applied to a few others.

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256. Lord *Wensleydale.*] To chlorides of zinc and antimony?

Not with respect to zinc; and I think chloride of antimony a very unimportant thing.—(Mr. *Edwards.*) The experiences of every trader in those substances will differ considerably according to his own experience. My own business is of the nature of an operative chemist, in which business I supply more substances to artists, and to artisans and to manufacturers, and for certain peculiar purposes in art than is the case with Mr. Abraham, who represents a dispensing business. I have also had a little experience in the country, and I am a lecturer on chemistry and medical jurisprudence; and my attention has been particularly called to poison in connexion with poisoning cases, upon which I have been consulted by the Crown.

257. *Chairman.*] Have you any difference of opinion with Mr. Abraham upon the 5th and 6th clauses?

I think the 5th clause should bear reference to the qualification of the vendor.

258. In what way?

That no person should be allowed to sell poisons under those restrictions unless he possesses some qualification. I think that the open sale of poisons by unqualified persons is most injurious to the public.

259. Earl of *Derby.*] Do you differ from Mr. Abraham with regard to what he stated, as to applying the same restriction to some poisons which now exist in respect to arsenic?

I quite agree with it if applied to the class of qualified vendors.—(Mr. *Abraham.*) I may observe that Dr. Edwards seems to have forgotten that the Act does not apply to the sales to artisans, which Dr. Edwards referred to.

260. *Chairman.*] In clause 11 there is an exemption of all articles supplied to persons carrying on certain businesses?

(Mr. *Edwards.*) Yes.

261. (To Mr. *Abraham.*) Will you proceed to state your objections to the 7th, 8th and 9th clauses of the Bill?

My objection to those clauses arises from the conviction that they would not be applied universally, and also that bottles intended for poisonous substances would get into the hands of various persons who would use them for other purposes, and they would become accustomed to disregard any warning of that kind. I think that a distinct provision, that all poisons should be properly labelled, and, if you like, that some mark, such as a skull with cross-bones, or something of that kind, should always be affixed, which could be recognized by the most ignorant, and which could be removed when the bottle was used for any other purpose, would be much more effectual.

262. Duke of *Somerset.*] Do you mean that every article in a chemist's shop that is poisonous should have these cross-bones upon it?

No, I was speaking of the articles as sold to the public. I meant that the packets in which those articles were put up should be so marked.

263. Then the articles would be kept in the chemist's shop in whatever bottles he pleased?

I believe you will do best by leaving chemists to preserve their articles in the way they find best, because they have a very strong interest indeed in doing their utmost to prevent mistakes; but I may say, that I have put the word "Poison" upon various bottles in my shop, which I hope does afford a useful warning, though I have not much reliance upon such precautions. I think if you employ unqualified or careless persons who have to deal with, mix and sell poisons, you will have death following.

264. Do you think that the practice which is applied to arsenic, of colouring the arsenic, might be advantageously applied to other poisons?

To none that I know of; and I am rather under the impression that the colouring of some with archil would be very dangerous; that it would give a resemblance to certain medicines which are in constant use; but I cannot speak very confidently upon that point, though I have a very strong impression upon it.

265. Your impression is, that clause 9, which enforces the employment of archil as a colouring matter, would add to the danger, rather than diminish it?
In the very few cases in which it could be used at all. I believe, generally, that it could not be used at all without destroying the character of the articles.

266. Your answer also applies to any separate cupboard in a chemist's shop for the preservation of poisons; you do not think that any precaution of that kind could be enforced by law with advantage?
I am afraid not; but I am sure that if it could be done, it would be done: chemists would be very glad to adopt it. And with respect to the forms of the bottles, I may mention an accident which occurred the other day in Liverpool. If the clause in this Bill which applies only to the bottles in which poisons are delivered to the public, had applied to the bottles in which the articles are kept for the purposes of dispensing, it might have saved the life of a patient. For instance, a youth making up a prescription containing sugar, took up by mistake a bottle containing * * * which is also a white powder, which was standing on the counter. If that dangerous article had been put in a bottle of a peculiar shape, it is very possible that that youth might have been guarded from that mistake. But I really do not think that it is necessary for the Legislature to make any enactment upon the subject, because the injury to a chemist's business by the occurrence of such a thing as poisoning an individual is so great, that if there really be any reason to suppose that it would protect them from accident, they would be most glad to adopt it.

267. Lord *Rossie*.] Your opinion is, that if that bottle in which that substance was contained had had a peculiar mark upon it, that mistake could not have occurred?
I think so.

268. Should you see any objections to chemists keeping poisons in a peculiar shaped bottle, different from the bottles in which other articles are contained?
I have known it done, and I believe it is still done by one house in London; but I cannot say that upon the whole I think it so good as the mere putting the label "Poison" over the name of the article; for this reason, a chemist is continually receiving additional fresh poisonous articles, both new articles, and also additions to his stock, which it might not always be convenient to put in a bottle of the proper shape; but it is very easy indeed for him, if he has a stock of printed labels, with the word "Poison" on them, to put one of those labels on the bottle.

269. While you think that as regards the public, any particular shaped bottle or any little distinctive mark would be a disadvantage, there would be no real difficulty in chemists having it?
I explained that I thought so, because I was afraid that it would not always be applied. I think that the lower class of dealers would sometimes deviate from it, and that a false security would in that way be generated; and I also mentioned that I thought the public having such bottles would use them for other purposes.

270. *Chairman* (to Mr. *Edwards*).] Do you agree or do you disagree with the views put forth by Mr. Abraham upon those clauses with regard to the bottles?
I consider that the provisions of the Bill would be extremely troublesome, and would give rise to mistakes. I think that in the case to which Mr. Abraham referred, there is nothing contained in this Bill which would have protected the chemist, and I think it is an illustration that even the arrangement proposed of keeping the poisons in a separate closet from the rest of the simpler drugs would not necessarily protect a dispenser from making such a mistake; for the circumstances of that case were these: a young man in the midst of making up a prescription containing sugar, left off in order to prepare a prescription containing * * * He left the bottles upon the counter, finished off his prescription, sent it out to the public, and came back finding these bottles upon the counter waiting for him. He then used the * * * a second time, and put it into the medicine instead of the sugar. Now wherever he had fetched

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fetched those bottles from, he brought them to the same place to do his work; and the fact that they were upon the counter together would have occurred, even if they had been kept originally in separate compartments.

271. Earl of *Derby.*] Would not that mistake have been altogether prevented, either by having the bottles labelled or having them of a particular shape?

I think that the young man was very culpable in using the bottle, a label of which he did not read. There was a label on each bottle.

272. Lord *Wensleydale.*] That observation of yours arises from the little security that there would be in keeping them in a separate place?

Yes.

273. It does not affect the security as regards the shape and colour of the bottle?

No.

274. Lord *Talbot de Malahide.*] Supposing that very dangerous poisons were put into a particular shaped bottle, might not that serve as a guard to those who could not read?

I think that the very dangerous class of poisons are not those which go into the hands of the most ignorant, such as prussic acid, or oil of bitter almonds; they are not sold to persons who cannot read; and under any circumstances I doubt if it is right to sell these poisons to that class of people.

275. *Chairman.*] Are you aware that the substance which is most used, both in intentional and unintentional poisoning, is laudanum?

Probably it is.

276. That is used by every class of dealer, is it not?

It is; and not only so, but, as Mr. Abraham has observed, it gets into the hands of a class of persons who simply wish to accommodate their customers; and in Liverpool a good deal has been sold by publicans, especially during the cholera season; and during the fruit season in the summer, it is the custom for the publicans to keep a supply of laudanum to add to the brandy; and were a great restriction placed upon chemists, the trade for laudanum would go into the hands of the publicans, and the trade for chloroform also; and I think that you would not have the same protection in that case as in the case of a respectable class of people.

277. Lord *Wensleydale.*] They would all be liable to be punished if it were contrary to the Act of Parliament?

Yes; but it would be very difficult to prove it.

278. Lord *Rossie.*] Is it difficult to get assistants duly qualified in your business?

There are a large number of young men who are qualified, but who have not passed the examinations of the Pharmaceutical Society. There is no guarantee of their qualification except such as the employer himself ascertains when he engages such assistants. The large mass are sufficiently qualified, I believe.

279. Earl of *Derby.*] An apprentice is wholly ignorant of his business when first engaged, is not he?

He is.

280. What security is there against the sale of dangerous poisons by the carelessness of an apprentice?

The intelligence and education of the master himself. If he is intelligent, and if he really desires to do right by his apprentice, he will only put him to such duties as he can execute with safety to the public; and it is only in those cases where apprentices are taken by small shopkeepers who are obliged to use their services in order to dispense drugs for economy, instead of by assistants, that they are put to dispense strong drugs; in other cases they are not allowed.

281. Lord *Rossie.*] Do you think it would be possible to confine the sale of poisons to educated chemists?

There is a certain class of poisons which the public are acquainted with, and which, therefore, are dangerous to be freely dispensed. I think that a schedule might be very usefully adopted, including certain articles, the sale of which should be confined to qualified pharmaceutical chemists.

282. Duke of *Somerset.*] Would you be prepared to put opium, and its preparations, into such a schedule?
I should not, at present.

283. Then that poison which is used most, both intentionally and unintentionally, for the purpose of poisoning, would still go on being used totally unprotected by the Bill as you would have it?
I believe that the sale of opium can only be restricted with respect to the qualification of the vendors; and I would not allow opium to be sold by any persons under any circumstances not possessing the requisite qualification.

284. Lord *Rossie.*] Would you confine the sale of opium solely to persons having that requisite qualification?
I would ultimately.

285. Are there a sufficient number of persons now to fulfil that condition in the different villages and towns in England?
I think it would require time to legislate upon that particular point.

286. Duke of *Somerset.*] Would it not throw the sale into the hands of a low class of dealers if you tried to make such a regulation as that; would not opium be sold, as it is sold now, by a low class of dealers throughout the villages in the country in defiance of the law?
That is the case at present; I believe such a law as this now proposed could only be carried out by proper informations by a public prosecutor of some kind. I believe the Arsenic Act is frequently ignored. There was an instance which occurred at Bolton, where white arsenic was sold. Dr. Taylor has just mentioned a case in which arsenic had been obtained by a gentleman for the purpose of suicide, and of course it depends upon the mode in which the Act is enforced as to whether it becomes a very useful Act or otherwise to the public.

287. What would be the effect of a law as to poisoning, which at once said that no man, except an educated chemist, should sell opium or any of its preparations?
In the present state of the country, I believe it would be ignored.

288. Then it would be useless?
It would.

289. Marquess of *Salisbury.*] Do you differ with Mr. Abraham in supposing that restricting the trade would occasion large quantities of poison to be purchased at a time?
I quite agree with him upon that subject.

290. Lord *Talbot de Malahide.*] As I understand you, your proposition, with reference to the sale of opium, forms part of a system that you would recommend for generally putting the sale of all drugs upon a different footing; that is, confining it to parties who have passed an examination, and shown that they were capable of being entrusted with the dispensing of them?
Yes, it is so.—(Mr. *Abraham.*) I wish to observe, that there is a largely-increasing number of qualified persons practising pharmacy, both as principals and as assistants. Very great efforts have been made by the profession generally, through the Pharmaceutical Society, to improve the education both of their own members and of succeeding pharmaceutists, and with very considerable success; and with respect to any legal enactments restricting the sale of poisons to qualified persons, I cannot see that it would have any tendency to throw the sale into the hands of an ignorant class of dealers; and I do not think it would be ignored, unless you made it excessively difficult for qualified persons to supply the article. If the public can get what they want from a qualified person, they have no inducement to go to an unqualified person; but if they cannot get it from a qualified person, they will then go to persons who will evade the law.

291. *Chairman.*] Therefore, the result would be, that in large towns they would apply to pharmaceutical chemists, and in the country they would go to general dealers?
I should say that there are many highly respectable chemists and druggists who, I am sorry to say, are not members of the Pharmaceutical Society; but I believe

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I believe it is the fact, that the Pharmaceutical Society represents the great body of respectable chemists and druggists in the kingdom.

292. You do not object to a highly-qualified country chemist, whether he belongs to the Pharmaceutical Society or not?

No; but if he is a person of good character, I think you might safely trust him with the sale of poisons which are in demand.

293. Lord *Rossie.*] How is that to be ascertained?

I think you might very safely leave the Pharmaceutical Society to make some kind of examination into the qualification of individuals, and to authorise them (provided they obtained a certificate of character from some local authority) to sell poisons.

294. Duke of *Somerset.*] You would not in any way increase the difficulty of the public getting at such a poison as opium?

Not beyond the provisions of the Arsenic Act. I think that Act was well conceived, and imposes no hardship, with the one exception which I before mentioned.

295. *Chairman.*] You think the penalties imposed in this Bill are of too severe a character?

I do indeed, if the principal is to be responsible for the acts of his assistant; and I think that the principal ought to be responsible for the acts of his assistant.

296. Lord *Ponsonby.*] Would it not be difficult to prove in a chemist's shop who had made up a particular compound?

I think it might. I think the Act ought to apply to the principal; but in that case, I think the penalties should be sufficiently severe, but not ruinous; because the best-intentioned might, by the folly or wickedness of another, be subjected to them.

297. Earl of *Derby.*] You would not object to make the principal criminally responsible for the conduct of his assistants, so far as regards the imposition of a moderate fine as a penalty upon the offence?

I would not.

298. Probably you would not object to increasing the amount of that fine upon a second or third conviction for the same offence?

No; I think he ought to suffer more the second time.

299. Lord *Rossie.*] The provision which you object to principally is being disqualified from carrying on business?

Yes; and I think the penalty is very high too—it is 50 *l.*; for a second offence might really be but a trifling thing; although I should endeavour to obey precisely any enactment.

300. *Chairman.*] In your Petition, lastly, you represent that many of the articles in Schedule A. are in daily demand for useful and domestic purposes, and so on, and that to restrict the sale of such would impose a serious inconvenience upon the public, without defeating the objects of the criminal?

Yes; and I may state how I come to that conclusion. There are in the Liverpool Directory about 210 chemists and druggists: there are 217 names; but perhaps some of them are duplicates. Now I calculate, that if each of them sell on an average 25 articles coming within the provisions of this Act, and there are 310 working days in the year, you would have upwards of two million sales in a year. Now I hold in my hand a return of the deaths from poisoning during the last five years, in the borough of Liverpool; this is in the handwriting of the medical officer of health for the borough, who has sent it to me. I find that the total numbers of persons poisoned there during the last five years were 34; of those 15 were suicidal; the remaining 19 were cases either of accidental or homicidal poisoning; I do not know in what proportion they may be. You will perceive, therefore, that out of a sale which is estimated at upwards of two millions annually, there were only four cases annually of non-suicidal poisoning which ended fatally, rather less. In 1852 there were four; in 1853 there were four; in 1854 there were four; in 1855 there were four; in 1856 there were three. There is a remarkable equality in the numbers; but I should observe that the medical officer of health adds: "In addition to the above, four

four inquests were held in the years 1855 and 1856, in which verdicts of 'chance medley' were returned; some or all these may have been cases of poisoning;" Dr. Duncan does not inform me whether they were or not, but does not materially increase the numbers.

301. (To Mr. *Edwards.*) Have you any information to offer which has not been given by Mr. Abraham?

I think, in clause 11, a farmer should be included in the class of tradesmen to be entitled to obtain those poisons, such as arsenic, for the purposes of their trade, without being limited to purchase particular quantities. Several accidents have arisen from the fact of farmers storing their poisons through getting more than they required; and I think, also, that there is now another class of persons who ought to be enabled to get some of the substances included in the present schedule, if you retain the words, "and its compounds," "and its preparations," to a large number of those poisons. In that case, I think the class of students who are pursuing branches of study in science and art should have some consideration; there are a large number of young men who are informing themselves upon chemical subjects, and entering into studies, who cannot come under the class of tradespeople, but who would be materially hampered in their education by such provisions as this Bill contains: amateurs in photography and electro-metallurgy, for example.

302. Supposing the certificate which would enable them to obtain it was limited to the signature of one householder, do you think it would be a hardship upon those young men to go through that form instead of going to a clergyman?

Then the objection would not be very urgent; but I should object very strongly, upon other grounds, to the use of the words "and its compounds," "and its preparations." I should strongly urge for your consideration, that every article which it is intended to name as a poison should be specified, as very much injury to the public would result from the exclusion of preparations which contain only very minute proportions of the poison.

303. Lord *Wensleydale.*] And not dangerous proportions?

Not dangerous proportions; and in a number of cases of poisoning which have come under my own examination, I do not know of one within the last 12 months which the provisions of this Bill would have met in every respect, so as to have prevented the poisoning.

304. *Chairman.*] Do you think that there is any objection as to Schedule A. under the third head, "the poisonous vegetable alkaloids," instead of specifying them; do you not think there is some convenience in not informing the public as to the particular descriptions of vegetable alkaloids?

I have no objection to that.—(Mr. *Abraham.*) Our Petition urges that clause 11 should state, that all sales for the purposes of business should be excepted; there are certain trades that are excepted by name; but there may be other occasions in which those things are wanted for trade purposes, which either now do exist or may exist, and it is not desirable to impose useless and burthensome restrictions. The following is the schedule I should propose:—

Arsenic or arsenious acid.
Corrosive sublimate.
The poisonous vegetable alkaloids.
Prussic acid.
Essential oil of bitter almonds.
Cantharides.
Nux vomica seeds.
Cocculus indicus.

The Witnesses are directed to withdraw.

Ordered, That this Committee be adjourned till To-morrow, Two o'clock.

Die Martis, 16° *Junii* 1857.

LORDS PRESENT:

Duke of Somerset.	Lord Rossie.
Earl of Hardwicke.	Lord Wensleydale.
Lord Somerhill.	Lord Talbot de Malahide.

THE DUKE OF SOMERSET in the Chair.

WILLIAM HERAPATH, Esquire, called in, and examined as follows:

306. *Chairman.*] HAVE you seen the Bill that is before the House of Lords with respect to the Sale of Poisons?

I have.

307. Will you state in the first place, as you have had great experience upon the subject to which this Bills refers, whether you think that any legislation is desirable at the present time with reference to this subject?

In the first place, I must say I do not think that the benefits have been derived which we expected from the restriction upon the sale of arsenic.

308. Do you think that the Act, with regard to the sale of arsenic, has not been beneficial to the public?

I believe this, that although the poisoning from arsenic has been lessened, it has had the effect of driving the secret poisoner into other poisons which are more difficult to detect, and that the result has been that there has not been a smaller number that have died from poison than before the restrictions.

309. But as far as regards arsenic, you think that the Act has, to a considerable extent, prevented arsenic from being used for the purpose of poisoning?

I believe it has; it has lessened the number of poisonings by arsenic; but it has thrown the secret poisoner upon vegetable poisons and other poisons more difficult to detect. I have found more cases of what is usually sold as rat and mouse poison.

310. *Chairman.*] Having found that the legislation, as regards arsenic, has not been, in your opinion, altogether successful, do you think it desirable that any other Act should be passed, or that any other mode of legislation should be adopted, with a view to diminish either intentional or unintentional poisoning?

I conceive that if a measure is introduced it must have three objects in view; first, secret poisoning; secondly, suicide; thirdly, chance medley. Now I do not believe that any one system can be introduced to check the whole of these. As to suicide, I think it will be totally impossible, under any circumstances, to prevent it.

311. You think we cannot expect to diminish suicide where a person intends to commit suicide by these means?

I think not; if he cannot have recourse to one mode of destroying his life, he will to another.

312. Then, as to intentional poisoning, what is your opinion?

As to intentional poisoning, I think that something might be done by a system of registration in a book, in which there should be columns for the signatures of the seller and the buyer. If that was properly acted up to, it would be serviceable in one point of view; it would identify the purchaser; because,

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because, even if the purchaser cannot write, still it will give so much time to the seller to observe the individual, that he will be very likely to recognise him afterwards; and even if he only makes his mark, he will take some time to do so, and the seller will observe the mode in which he makes it.

313. In any legislation that is made upon the subject, it will be necessary, in the first place, to consider what articles shall be subject to legislation; therefore, the first question relates to the matter which appears last in this Bill, but which is first named in it, namely, a "definition of poison," the definition given in this Bill depending upon the articles in the schedule. Have you looked at that schedule?

I have, and I do not think it will be possible to include anything like such a number of articles as are included in this Bill; I think it should be confined to those which may be used for secret poisoning; those which are tasteless, or which are not to be recognised by the victim, those are a small number. The great difficulty I fear is, with respect to opium, which, I fear, we could not restrict practically. That is one of the most common substances resorted to by secret poisoners. The greatest extent of schedule I would propose, is as follows:

Arsenic Fowler's solution of arsenic Prussic acid Strychnia Nux vomica	Secret poisoning.
Cocculus indicus	Hocussing.
Ergot of rye Oil of savin	Abortion.

314. You heard the evidence given yesterday with regard to opium?
I did.

315. Will you state the reasons why you think we could not legislate as regards opium?

I think it was shown yesterday that the vast number of things introduced into this schedule would embrace half, or at least a very large proportion, of the articles to be sold in a druggist's shop; I think it would be impracticable to introduce such a number into the Act, because if they were enumerated, still in practice it could not be carried out, for this reason; although I am not a druggist or a medical man, of course I know the mode in which they dispense their medicines, and I know that mankind are not inclined to take too much trouble, and I know that dispensers would not have two sets of weights and scales; and the practical effect of it would be, that if they had those things kept in a separate place, they would be brought when wanted to the place where the chemist was dispensing, and there would still be the chance of his taking up one bottle in place of another; he never would take his medicine, partially prepared, away from one part of his shop to another to complete it, and bring it back again.

316. In the first place, will you state what articles you think we might reach by legislation; you say that arsenic is one?

That is one; that is an article which may be taken without the victim being aware of it. Corrosive sublimate is so horridly nauseous to take, that I do not think it could be applied to secret poisoning; it could only be applied to animals. I have never known a case of poisoning an adult by means of corrosive sublimate.

317. Lord *Wensleydale.*] Are you aware that there was a case tried before me at Gloucester, 25 years ago, in which the poison used was corrosive sublimate?

I was not aware of that case. If the victim was not aware of it, it must have been mixed with medicine, because the taste is so nauseous, and remains so long in the mouth; it is described as of a coppery taste. I have never met with a case in which it was resorted to for the destruction of human life.

318. *Chairman.*] Would you include in the schedule compounds of arsenic?
All the compounds of arsenic are poisonous without exception.

319. Then

319. Then would you equally put them in the schedule?
There are some substances used in the compounds of arsenic which are used in medicine, Fowler's solution, and one or two others; and I question how far you can put a restriction upon them. I never heard of a case of poisoning by them; the greatest danger from the compounds of arsenic is from an overdose of Fowler's solution, or from an accident on the part of the dispenser.

320. As regards the safety of the public, do you think it would be sufficient if we put "arsenic" in the schedule, and omitted the words "and its compounds"?
I think it would.

321. As regards corrosive sublimate, I think you said that in your opinion that is not desirable to be inserted?
I am now confining myself to secret poisoning; I think it is unnecessary to insert it for that purpose.

322. We are told that there would be great inconvenience in putting it into the schedule, because it is required for many purposes of trade; is that so?
Yes, and for medical purposes.

323. Lord *Rossie.*] Are you not aware that the Bill provides for the lawful uses of these articles in trades?
I am speaking of trade, in this instance, with regard to druggists; there are very few trades in which corrosive sublimate is used; I believe it is used by the stainers of gun-barrels, and I think they use it also in photography a little, and in bronzing.

324. *Chairman.*] Would you include in the schedule the next article, which is called the poisonous vegetable alkaloids?
I think they might be restrained, because they are very little in demand, except in dispensing medicine: I do not think the public are at all aware, except in the case of strychnia, to which public attention has been called lately, of the presence of these poisons, or of the character of their compounds.

325. Would you include prussic acid?
Prussic acid is a substance which ought to be put under some restriction, because it is not required for any thing that I know of except as a powerful medicine to reduce the action of the heart.

326. Cyanides of potassium, mercury, and silver; would you include those?
There would be great difficulty in that; as to the cyanide of mercury, I never heard of that being used for poisoning, nor the cyanide of silver; the cyanide of potassium is extensively used in photography, and the difficulty would be, that a person would personate most likely a photographer in order to obtain it: this is a body of a strong taste, but not so strong as corrosive sublimate. The difficulty with respect to such a thing as that would be, in ascertaining the individuality of the person, and saying how he is to get a certificate.

327. To take that branch of the question first, will you go through those clauses in the Bill which refer to the restrictions put upon persons obtaining poisons; you propose that there should be a registry kept?
Yes, a register made and signed by the seller, and also by the purchaser.

328. Will you look at the 6th clause of the Bill; would you require an entry of "the date of the sale and delivery of such poison"?
Certainly.

329. And "the name and surname of the purchaser"?
Yes.

330. "His place of abode, condition or occupation"?
Yes.

331. "The name and quantity of the poison sold"?
Yes.

332. "The purpose for which each poison is stated to be required"?
Yes.

 333. And

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333. And then would you have "the name and condition of the person giving the certificate for such purchase, with the date of such certificate"?
I see great difficulty in requiring that: I understand that the party is to go to a minister or a magistrate. There would be great difficulty in that practice; many of these things might be required at a short notice, and there might be difficulty in getting at the party who is to give the certificate. If it is done by a magistrate, most likely, after a little time, there will be carelessness in signing these, the same almost as there is with declarations of pledge tickets, and such things.

334. If it were made a condition that any householder should certify that he knew the person, would that be of any use?
That would be a precaution, if it could be done, but the difficulty would be in this respect: does the dispenser know that this housekeeper is himself of good repute? It would afford just this additional precaution, that two persons would know the nature of the purchase, instead of one; that is the only thing that would be gained by it.

335. Lord *Wensleydale.*] That is a good deal to gain, is not it?
It is something.

336. Lord *Rossie.*] Do not you think that if a person who wanted to make an improper use of poison had first to go to a householder, and get an order from him, it would make him hesitate?
It would make the fact known amongst his neighbours, and it would direct suspicion towards him in case of sudden death happening; the coroner would be likely to be informed of it through the constable of the neighbourhood: that would be an advantage.

337. Earl of *Hardwicke.*] On the other hand, the number of persons requiring strong medicines or poisons (for they are much the same) is very large, and the number of persons who are in the habit of applying medicines to their own uses, without consulting a medical man, is very considerable. How would you like, as a magistrate living in the midst of a large population, to be called upon by every person who wanted to use or to administer one of these medicines for a certificate, signifying your consent or approval?
I should not like it.

338. Do you think such a system would be practicable?
I do not think it would be practicable at all in a large town. I should hesitate about doing it, with a population of 150,000, in Bristol. As the senior magistrate at present in Bristol, I should hesitate in giving certificates to persons at Bedminster and Clifton, and other places; I should not know them.

339. What condition would a householder be in, being liable to have his door knocked at, or his bell rung, by all persons wanting certificates to take or to administer these medicines?
There would be great difficulty if all the articles in this schedule were included; but I should think the number that would want arsenic or prussic acid would not be so numerous. They might get a neighbour in the same street, or somebody close by, to walk with them to the chemist's shop. I think it would be better to have the attendance of a witness than to have a certificate.

340. Lord *Wensleydale.*] You think that would be more likely to repress the evil?
It would; because, if one person was not recognized by the seller, the other might be; or if one was not known to the seller, the other might be; because I think this is desirable principally with a view to identification afterwards.

341. Lord *Rossie.*] Whom do you look upon as a householder?
In some instances it would be very difficult to define it: in Scotland, it would be the occupier of a flat: in others it may be the occupier of a cottage, or a party holding half a house.

342. Lord *Somerhill.*] As it is obviously the intention of the Bill that a man shall not get a poisonous medicine unless he is known to some householder, would there, practically, be any difficulty about that?
Yes, if you speak of medicine generally. If the poisons specified in the Act are

are few in number, I see no difficulty ; but if it is a large number, I think it is next to impossible.

343. Would not that difficulty be reduced to this, that if a person be resident in a district, in whatever class of life he may be, he is almost sure to be known to some householder ; and if he be not, he must, as a last resort, state his disease or his want to a medical practitioner, and get an order from him ?

I think it would very rarely happen that a person would be in a neighbourhood where nobody knew him ; he might say to a neighbour, walk with me, or give me a note to the chemist and druggist, to say that I want such a thing, or that you know me ; I do not think there would be any difficulty in that.

344. *Chairman.*] We are told that it would probably tend to this, that a person finding a difficulty in getting an article that he wanted, would say, " Now that I have got a signature, I will get three times the quantity, because it will save the necessity of another application ;" do you think that would be likely to be the effect ?

I suppose the question refers to such medicines as would produce death by an overdose, such as opium.

345. Suppose that he said, " I want this medicine, but I do not like the trouble of going through this form of application for it ; I will therefore get three or four times the quantity that I want, and put it by ;" would not then the danger arise that there would be a store of poisons not under oversight which had been procured in this way ; would not danger be more likely to arise from that store than from the store in the apothecary's shop ?

The great difficulty of attempting to restrict opium is this, that I know it has been the practice with persons committing suicide to get a small dose at each of a great number of shops, and in that way make up a quantity sufficient to kill ; that is the difficulty of legislating with respect to opium, because no chemist would hesitate to sell three or four drops of laudanum.

346. Earl of *Hardwicke.*] You would exclude opium or laudanum from the Act ?

I do not see how it is to be ncluded ; if it were practicable to do it, it would be advisable that it should be done ; but I cannot see how it can be done, because many people suffering from the toothache or the earache want a few drops of laudanum.

347. Lord *Somerhill.*] But with respect to judicial investigations, would not the fact of a person having gone to different shops, and having obtained small quantities of a particular poison at each, at any rate indicate the intention of the person, and help to clear up any doubt that might exist with respect to his having had in his possession or having administered a sufficient quantity of poison to produce death ?

But the great difficulty would be to get that evidence, because the fact would not be noticed of his purchasing those small quantities of laudanum ; the dispenser would not be likely to notice it.

348. But my question supposes that by the clauses in the Act those purchases were required to be noticed and registered ; if that were done, it would be known that he had made those purchases ; and although you might not prevent his committing suicide, or his committing murder, you would have some strong evidence with respect to the use of the poison by that person ?

I am afraid that the sales of those small quantities are so frequent, that it would be an intolerable nuisance to be obliged to enter them all, and I am afraid it would not be carried out in practice ; if it could be carried out, it would be a good thing, but I fear it would be next to impossible in large towns. I should think that their entries of small quantities of opium would sometimes be 100 in a day.

349. I did not mean my question to apply to opium alone, but to arsenic, and to all poisons that may be retained in the schedule of the Bill ?

I do not think that people ever think of purchasing arsenic in such small quantities as not to kill life. I have never heard of a person accumulating small quantities of arsenic in that way ; there is no necessity for doing it ; less than three grains will kill.

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350. Does the objection you have stated of the impossibility, as you apprehend, of enforcing a registration of the purchases, apply entirely to opium?
Certainly; that is the article that there is the greatest difficulty about.

351. Lord *Wensleydale.*] In the case of opium, would not it interpose considerable difficulty in the improper use of it, if a person were obliged, on all occasions, to get the sanction of a householder to his purchasing it?
Yes; but I do not conceive that it could be carried out in practice, unless there was a general certificate given; I mean by somebody giving a certificate to an opium drinker, which should last a considerable time. The certificate might state that such a person is in the habit of taking 100 drops of laudanum at a time; and the man should always go to a particular shop to buy it.

352. Earl of *Hardwicke.*] Supposing a party, having got a certificate, goes and buys so much laudanum, and comes back a few minutes afterwards, and says, "I have had an accident, and broken the bottle," and he brings the broken pieces of the bottle, having transferred the laudanum into another bottle; may he not in that way get a large quantity into his possession?
That is quite true; that is a difficulty which applies to a common medicine like that.

353. *Chairman.*] Then am I right in understanding that you are of opinion, after fully considering the subject, that opium had better be excluded from the schedule?
I think it is advisable to put it there, if any practical plan can be found of carrying out the Act with respect to it.

354. But you see so many difficulties in doing that, that you think it may be excluded?
I could not recommend it to be included.

355. Lord *Rossie.*] Would you be prepared to give in to the Committee a list of those poisons which you think might be included in the Bill?
I should confine it to such poisons as could be used to destroy the life of others.

356. Would you include all those poisons with their preparations?
No, I would not; I would specify by name every thing that was to be included. I would name the particular preparation, whatever it may be. There are several things that are not in the schedule which are poisons, and which will be obtainable at almost every grocer's shop in the kingdom, and that will be a principal difficulty of this Bill.

357. Do you think that the enumeration in the Act of a list of additional poisons would be attended with any danger of drawing the attention of the public to the use of them as poisons?
Yes, I do; that is one of the principal difficulties which occurs in toxicological inquiries in courts of justice, that the public get educated into the subject of poisons. No sooner does a poison become known, than every attention is paid to it; hundreds of people in many instances throng the courts for the purpose of learning, and they talk amongst each other, and they soon get to learn how that poison can be used; they get a knowledge of its nature, its quantities, and its mode of action, and so on; and thus it is that I have found since Palmer's case the use of strychnia as a poison has been much more known than it was before.

358. If these poisons were enumerated in the Act of Parliament, you think that would have the effect of drawing the attention of the public to them?
Yes; the Act of Parliament would get published, and the public generally would get better acquainted with the nature of those poisons.

359. Lord *Somerhill.*] Have there practically been more attempts to murder by the use of strychnine since Palmer's execution than there were before?
Certainly; I have had several cases of strychnine latterly. There have been a great many cases in which it has been applied to animals.

360. Can you state to the Committee any particular cases of conviction of poisoning with strychnia that have happened lately?
No, not convictions, except the case at York. There was a case that I knew in

in which a suicide was committed with nux vomica in the neighbourhood of Hanham.

361. But except the case at York, has any person been convicted recently of murdering with strychnia?

I do not recollect any case that has come to my knowledge.

362. Lord *Talbot de Malahide.*] Was not the nature of strychnia known to gamekeepers many years ago?

Yes, in the shape of nux vomica, but not in the shape of strychnia, I believe; I do not think it was so generally known as nux vomica. But in Australia I know that as large a quantity as 12 lbs. a year has been sent over for the destruction of the wild dog. The great use of the strychnia imported from France is to send it to Australia; there is an association formed for that purpose. There is another point that I should like to mention; I do not see that this Bill at all contemplates the restriction of patent medicines. Now some of those are very dangerous. There is Daffy's elixir and Godfrey's cordial, which are used in some districts for the purpose of destroying children; sometimes to keep them quiet, and sometimes intentionally to destroy them. I do not see that there is any restriction intended to be placed upon them; and I do not see how it would be possible to do so.

363. Are the articles of which those medicines are composed not included in this list of poisons?

It is by opium that the effect is produced; those things would be sold, not by a surgeon, and not by a chemist or an apothecary, but frequently by a common shopkeeper.

364. But if they are preparations of any of these poisons, they could not sell them under the Act?

But I do not see how it could be known that such bodies were in those patent medicines, because there are no analyses of those medicines; the obtaining a patent is such a merely formal application, that it does not come under the notice of the Government. For instance, there is Holloway's pills, containing a large quantity of a drastic purgative, yellow gamboge, which is well known to kill when used in large quantities. Now I do not see how you could legislate, unless you put patent medicines under some Board.

365. Lord *Somerhill.*] You think that legislation should be limited to a few particular poisons?

To a few poisons.

366. *Chairman.*] Having been determined upon that limited number of poisons to which the legislation should be applied, will you state more fully how you would propose to deal with them; the first thing that you state is, that you would require a certain register to be kept of the sales, and certain items to be put in the register, which should be signed by the seller and the person purchasing?

Yes.

367. Would you allow a chemist's boy, or anybody that might be in the shop, to sell, or would you restrict it to the head person of the establishment?

Those secret poisons ought to be sold only by a qualified person, and there the difficulty would be this, that in country places I am afraid that you will not always find a qualified person; but if you gave a certain time, and said that after a certain time, one or two years, no poison should be sold but by a qualified person, I think that would tend to make those parties qualify themselves.

368. Lord *Talbot de Malahide.*] Would you allow no poisonous drug or medicine to be sold by any person who was not properly qualified?

I do not know as to those that are not dangerous; I do not see why they may not be; the difficulty of that would be, that you would subvert the whole of the druggist's trade through the country, and there are many thousands of persons engaged in it. I think you must allow those persons to go on as they are now for a time; there is a gradual education of the druggist going on; the Pharmaceutical Society is now endeavouring to educate that class of people, and to render it compulsory upon them that they shall pass an examination; if you can quicken that operation, I think you would be doing good.

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369. You think it would be desirable if you could make it compulsory on those parties to be examined?
I think if you give time so as to enable the parties to get educated, you may do it; but at the present moment you would not find educated persons enough to attend to the sale practically.

370. Would not such a restriction be likely to have the effect of very much enhancing the price of several very useful drugs?
There is no doubt of it.

371. So that it would tend to create a monopoly, and to confine the sale of those drugs to great towns; because in country villages you could not get qualified persons to do it, nor could you expect qualified persons to undertake the sale of these things at the rate at which grocers would do it?
No; in most country villages those drugs are sold by grocers.

372. Lord *Wensleydale.*] Would you put any restriction as to the age of the person selling these poisons?
The apothecary himself has a very strong motive to employ a proper person, for this reason, that if a mistake is made in his shop, it is ten to one that he is ruined; of course everybody will avoid him.

373. Do you think it would be proper and desirable to say that no person who is under age shall actually be the hand to sell any of those poisons?
If only a small number are put in the Act, I think you might limit it in that way.

374. You have not told us what articles you think ought to be included in the schedule; will you state what you would specify?
There is arsenic and there is prussic acid, and the poisonous alkaloids; I would include of course belladonna, hemlock and aconite; as to opium, there is the difficulty I mentioned before.

375. You would include strychnia?
That is amongst the alkaloids.

376. *Chairman.*] Would you when you had completed your schedule, limiting it to those articles that you wished to put in it, limiting the sale, but not allowing those articles to be sold except by a certain number of registered and properly qualified persons?
I would, in large towns; but then comes the difficulty, how you are to get that class of persons in country villages; I do not think it can be done in villages at present.

377. Would you recommend any further precautions as to the mode of keeping the medicines, either by keeping them in separate cupboards, or by keeping them in peculiar bottles, or in any other way?
I think you may with anvantage have them kept for sale in vessels of a peculiar character different from others; but I do not think you could limit the sale of them to vessels of that description; because in country villages and other places people are in the habit of bringing their own bottles; if you sent out a dangerous article in a bottle of that sort, it is ten to one that that bottle would soon be used for some other purpose; but I think that in the shop you might have them kept in bottles of a peculiar shape or colour; and I think that such things when sent out may be also covered with a paper of a peculiar colour.

378. You would have them kept in the chemist's shop in bottles of a peculiar construction, or of a peculiar colour, and with peculiar labels?
Yes; but I would not recommend their being kept in a distinct place.

379. But when the chemist sends it out by sale, you think he might send it out in any ordinary vessel or box without being required to put it in a vessel or box of a peculiar shape?
If he sells it, I think he may be required to put it in a vessel of that sort; but I would not extend the restriction so far as to say that the article shall never be put into any other bottle.

380. Supposing the chemist sent it out in a peculiar bottle, would not this be likely to happen, that a poor person would probably use that bottle afterwards for

for many other purposes, so that the bottles would become mixed, some poison bottles, and some not poison bottles?

Yes; but then the only disadvantage would be that he would not take the beneficial medicine, because it was in a poison bottle.

381. Lord *Somerhill.*] Supposing the law were to be made the same in this country as in some other countries, namely, that any person who keeps poisons of a certain description in paper or bottles not of a certain colour, be he a trader or be he not, is liable at once to a penalty; how do you think that would work?

I do not think Englishmen would like that sort of legislation as applied to private individuals.

382. What objection could any rational person have to it after a short period?

But all Englishmen are not rational; some classes require a great deal more education to make them so.

383. But if other nations, who are generally supposed to be less intelligent than the English, find no practical grievance whatever from that system, but, on the contrary, considerable advantage, is there any reason why it should not be adopted in England?

I cannot express an opinion upon it: if the thing could be practically acted upon, it would be advisable; but I do not see how it could in this country.

384. If such a law were passed, of course bottles and papers of the particular colour required would soon become very common; then what practical difficulty could there be in any person who had occasion to keep poison having a paper or bottle of that colour in which to keep it?

It seems to me that it would convert the nation into a nation of informers. It would subject an individual to be fined by a spiteful neighbour, by lodging an information against him. Suppose a man in his own house happened accidentally to change a bottle, or something of that sort, he might have a spiteful neighbour who might observe the thing, and lodge an information against him.

385. *Chairman.*] If a photographer, for instance, keeps some poison in a bottle, and a friend of his wishes to try photography, and borrows a little of it in another bottle, he would be liable, under such a law, to a penalty for having put poison in a bottle not properly verified?

He would.

386. Lord *Somerhill.*] What difficulty would there be in his getting a bottle of the right colour to put it in, which would not practically cost him more than one penny?

That is if he could get it; but it is not always that there would be a supply obtainable.

387. If it is true that in other countries, whose manufacturing skill can in no way compete with that of England, abundance of coloured paper and bottles is to be had without any perceptible enhancement of price, could not that difficulty very easily be got over in England?

As I have not seen the working of such a system anywhere, I cannot express an opinion upon it. I have understood that in countries where such laws as this are in force, there is at the same time a sort of commission for going round to examine druggists' stores; I know that in Hanover there is a commission of that sort to examine all druggists' shops.

388. Supposing the habit were to be formed of keeping poisons in bottles and papers of a peculiar colour, would not that fact be of great assistance in all judicial inquiries after the administration of poison accidentally or otherwise; and would it not be of great assistance in guarding children or servants against poison?

It is very likely it might be of assistance; but it is the penalty that I am looking at; it might be an act of ignorance, or it might be an unintentional act, yet a man would be liable to a penalty: it is so rare to find death arising from things of that sort, except from carelessness, and then it is with children principally, rather than with grown persons.

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389. But is not the exception you mention, namely, carelessness, one of immense extent, practically speaking: looking at the number of deaths that have occurred even in the last three years in the United Kingdom, is not that exception an immense one?

I do not know what number of deaths have occurred from poison; but I do not think they are so numerous as appears to be imagined.

390. Have you noticed in the papers in the last few years the number of persons in families who have lost their lives, or had their health injured, by accidental poisoning?

Yes; but when you come to calculate that that is in 28,000,000 of people, I do not think it is a very large per-centage.

391. Lord *Talbot de Malahide.*] Would you say that there are more cases from mistakes of druggists or their apprentices, or from those of individuals in their own houses?

More in private houses, certainly, I should say.

392. Lord *Wensleydale.*] Would not that be prevented in a great measure by persons being obliged to have the poisons in vessels of a particular shape and colour, so as to attract attention to them?

I think it would be a proper practice to have triangular bottles or boxes of some particular shape for keeping poisons in; but my difficulty is about enforcing a penalty if through an accident that is not done in a private house.

393. Lord *Talbot de Malahide*] I understand you to state, that the Arsenic Act has not been found to diminish the poisoning with arsenic?

The total number of deaths by poison will be as great now as it was before, but the number of killed by arsenic is less. I believe that the murderers by poisoning have transferred their operations to other poison, speaking from my experience of the number of cases that came to me, which are many hundreds.

394. Have you found that the cases of poisoning through arsenic have diminished since the passing of the Arsenic Act?

I do not think there have been nearly so many as there were before.

395. Lord *Somerhill.*] Has the Act relating to arsenic diminished the accidental poisoning by arsenic?

I think so.

396. Lord *Wensleydale.*] Do you see any reason why a similar restriction with respect to other poisons should not have the same effect of diminishing poisoning by those other means?

Ultimately it might have that effect. In the case of the Arsenic Act, at first the operation of the system was rather interfered with by the caution of the druggists, who knowing sometimes that they had been not sufficiently careful, and that they had perhaps made themselves liable to a penalty, would not identify persons who had been at their shop to buy, because had they identified them, it might have made them liable to a penalty. But now I believe that over a considerable extent of country you would find a difficulty in buying arsenic, which you would not have found before the passing of the Act.

397. Lord *Rossie.*] Supposing there to be a limited number of poisons, such as you would now approve of, included in the schedule; would you approve of a power being given to add to that schedule by authority?

Yes; by the Government, in communication with such a body as the Pharmaceutical Society. There are occasionally matters introduced into the Pharmacopœia, or into commerce, which might properly be introduced into the schedule; I mean poisons of the same description that I speak of, poisons that could be taken without the victim being aware of it.

398. Then the Secretary of State, or the Privy Council, by the advice of a specified authority, you think might have power to add to the number of poisons in the schedule any others that might become known of the same description?

I think that might be done.

399. *Chairman.*] Why should the Secretary of State and the Pharmaceutical Society make laws, instead of Parliament?

That

That is no doubt touching upon the constitution, to a certain extent: it would be better done by an additional Act of Parliament.

400. If a poison became dangerous in the country, would it not be very easy to bring in an amending Act, introducing that poison into the schedule?

For instance, we know now that * * * * is a powerful poison; it is only lately that we have known it as such; it has not been used in that way in any instance that I know of, but still it might be used.

401. I understand that you think that bottles of a peculiar colour or construction only should be used for keeping poison in a chemist's shop, but that you think that it should not be compulsory on all persons who purchase poison to keep it in such vessels?

I think that when the druggist or chemist supplied such matters, he should supply them in such vessels; but I would not make it compulsory on the individual to keep it in such vessels, nor would I put a fine upon any person who did not do so.

402. Lord *Wensleydale.*] Would you allow a person to come with an ordinary round bottle, and to take any quantity of poison in it?

No, I would not; because I would expect that the chemist should take his bottle, and give him the poison in another bottle; but after it is once out of the druggist's hands, I would not extend the legislation to the man's private house.

403. *Chairman.*] How would that effect the dispensaries: we have been told that it would be very inconvenient with regard to a dispensary where patients bring their own bottles to get a particular drug, that the chemist should be bound to furnish them with other bottles?

It would not be practicable with the schedule now in the Bill; but with the limited schedule I speak of, there would be no difficulty, because arsenic and prussic acid are by no means administered in such quantities as to interfere with this legislation; but with such an extensive schedule as this, I think it would not be practicable.

404. You are supposing throughout your examination that we adopt a limited schedule?

Yes.

405. Lord *Somerhill.*] Practically at the dispensaries do not they dispense medicine according to prescription?

Not always; an apothecary does so, but not a druggist.

406. But it is under the prescription or advice of a professional person?

Yes; but a druggist does not confine himself to that. At the dispensaries they have generally a surgeon, or a medical man in attendance.

407. The medicine is given under the advice, written or oral, of a medical man?

Yes.

408. Therefore it would not affect the law generally if an exception was made in favour of dispensaries, because persons would only take away from dispensaries certain prescribed doses?

Yes. There is another class of poisons which I have not alluded to, and those are substances used for destroying the fœtus; there is ergot of rye and savin.

409. *Chairman.*] Would you keep them in the schedule?

I think I should, because they do not require to be used, except under the advice of a medical man.

410. *Chairman.*] In clause No. 9 in the Bill it is proposed that, as a means of protecting the public from poisoning, poisons should be mixed with certain colouring matter; do you think that would be any protection?

No. I see that in the case of arsenic, it is proposed that it should be required to be mixed with soot or indigo: now, there would be no difficulty in that being removed instantly, for this reason, arsenic is so heavy, that it is three times and a quarter the weight of water; it is even heavier than sand; it lies like sand at the bottom of the vessel which has had arsenic in it; but indigo and soot

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are both lighter; therefore, if a person was to put this in a vessel, it would be easy to take all the colouring matter out, and to leave the arsenic behind.

411. Lord *Rossie.*] How is arsenic coloured now?
That is the present practice.

412. Lord *Wensleydale.*] Although it would not be so effective as if it were quite incapable of separation, still it would be effective to a certain point, would it not?
Only to a certain point.

413. *Chairman.*] Would you not apply to arsenic the precaution of having it so coloured?
Yes, as far as it could be so done: I think if you mix the black oxide of manganese with it, it would be better; it is about the same weight as arsenic.

414. Lord *Wensleydale.*] Is not that more expensive?
No; it is only 6*l.* a ton.

415. *Chairman.*] Is there any other article that you would put into the schedule to which you would insist upon colouring matter being applied?
No. With respect to prussic acid, you could not colour that. The druggist or chemist is himself in the habit of colouring many of his medicines, to deceive the public, as he does by writing in Latin; he uses most commonly a reddish colour to disguise the medicines; I do not know what colour he could put in. In the case of prussic acid, it would be useless, for it is only given by the drop.

416. *Chairman.*] What is your opinion with respect to the provision in the 9th clause, that colourless liquid poisons should be required to be coloured with archil?
Archil is of itself coloured variously; in its natural state it is quite red; but a drop of vinegar, or any slight acid put into it, would change its colour altogether; it would no longer have its distinct colour.

417. So that you think that the use of archil would not be effectual?
I do not think it would be of any service with fluids, because so many fluids are themselves coloured, even when not artificially coloured. I do not know of any colour that you could add that would answer the purpose. With respect to prussic acid, it is not necessary; prussic acid is easily detected, if it gets into the victim's hands, by its very peculiar and disagreeable smell.

418. Will you look at clause 10, which says that if any poison be given or furnished by any person whatever to any other person, such gift or delivery shall be deemed a sale; do you think that the clause should be retained as applicable to a limited number of articles, so that a person could not administer any of those articles even to anyone in his own house?
It would be interfering with the liberty of the subject: suppose, for instance, I keep prussic acid in my house, and I have somebody in my house who has disease of the heart, and I want to lower the tone of the heart, it would be very hard that I could not give a certain quantity of weak prussic acid for that purpose without being subject to a penalty.

419. Suppose that, instead of that clause, it were put, "if any poison be given or delivered by a retail dealer to any other person;" do you think that it might stand in that form?
Then it might stand, because it must be with some object. If you have not some clause of that sort, the Act might be defeated, by the man saying, "I will give you some;" and the other party might throw money on the counter, not apparently for the payment, but really so.

420. Will you look at the next clause, which allows a number of persons using those poisons for the purposes of trade to obtain them. Do you think that clause 11 ought to stand with the restricted number of poisons that you propose in the schedule?
I think it might, with the small number of articles that we have been speaking of.

421. Might we not put restrictions upon the obtaining of these articles by a number of those trades who now obtain them, if we limit the number of articles to which the restriction is applied?

No,

No, I do not see what trades that could be done with; for instance, a farmer buys arsenic now in large quantities, for certain diseases of his sheep, and two or three cases have occurred within my own knowledge where that arsenic has been made the means of destruction.

422. Would you restrict a farmer from getting arsenic?
I would restrict him from giving it to any other person, but you cannot restrict him from getting it; he would have, I presume, a certificate from somebody.

423. But farmers are not included in this class of exemptions?
If other persons are included, they ought to be included, certainly.

424. Might we not insist that the persons included in this exempting clause should go through the same simple form of signing their names as other purchasers of these poisons?
I see no reason why they should not do so with a limited number of poisons.

425. You think that if we limit the number of articles in the schedule, we might also limit the number of persons exempted?
I think so, certainly; I think that if a person wants arsenic for any purpose, he ought to go and say, "I want it for washing sheep," or whatever it may be, and write his name in the book.

426. Lord *Talbot de Malahide.*] Then, would you have no exemptions?
No, I do not see any reason why there should be any exemptions.

427. Lord *Rossie.*] You think that no person should be exempted if the schedule is limited to a certain small number of poisons?
Yes.

428. In giving a list of poisons which should be put into the schedule, you do not intend to include the compounds?
No, except they are named.

429. Lord *Wensleydale.*] Would you have any difficulty in naming the compounds of all those substances which you would propose to put in the schedule, which could not safely be sold generally?
I do not think I should have any difficulty in doing that.

430. Will you have the goodness to put those down for the use of the Committee?
I will do so.

431. *Chairman.*] If a schedule of this kind were proposed to be put in by the Secretary of State, in what way do you think that the Secretary of State could best proceed to get such a schedule as could safely be used for the purposes of this Act of Parliament?
The main difficulty would be with respect to the alkaloids; I do not think it would be possible to give the compounds of alkaloids; with respect to arsenic, you might do it, and with prussic acid you might.

432. Lord *Talbot de Malahide.*] Would you confine the schedule to those substances that you have known to be used for the purpose of poisoning?
I would confine it to those that are known to be used for poisoning, and if the public got better acquainted with the use of poisons, you might extend it by degrees; but I would not have it embrace too much at first.

433. *Chairman.*] Could you give to the Committee a list of poisons which you think might be safely adopted for the schedule?
I could not give in an infallible list, but I could give my idea on some of them: cocculus indicus I should include, because it is never required for any thing; ergot of rye and savin should be in the list.

434. What do you say as to lobelia?
If you include lobelia, then you interfere with the herb doctors, and very properly, because I believe there is more danger from the unlimited sale of herbs, than there is from the articles in a druggist's shop. I have known cases of death from lobelia.

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435. If we put too many things into the schedule, should not we run the risk of raising up a low set of dealers, who would sell clandestinely things that were poisonous?
That is one of the dangers of attempting by restriction to prevent poisoning.

436. Lord *Talbot de Malahide.*] Could there be a lower set of dealers than those that exist at present?
No, I think not, as to the herb doctors and country grocers.

437. *Chairman.*] You would subject to a penalty any person who obtained these articles without signing his name?
I think so.

438. Therefore any person who had in his house poisons of this character, and who could not refer to an entry showing where and when he had bought them, would be under this Act placed in very suspicious circumstances, if not liable to a penalty?
Yes; but you could not fine a man for merely having it in his house; you may ask him to account for it, but it may be put there by other parties over whom he has no control; but if you proved that the man had bought it, and had not signed his name to it, then you might make him liable to a penalty; so you might the person who sold it, and did not do his part of the register.

439. Then would you impose a fine upon the chemist also who sold it without those precautions?
Yes, upon any individual who actually sold it, and did not take the precautions required.

440. What do you think would be a fair amount of fine to impose for a transgression of the law with respect both to the bottles in which the poison ought to be kept and to the certificate?
It should not be a large fine, for this reason, that they would always attempt to evade it; but if it is a small fine, the man would be punished also morally, because his master would be sure to discharge him; if his master did not discharge him, he would lose his business.

441. Lord *Rossie.*] You do not approve of the provision in the Bill that any body convicted of a second offence should not be allowed to carry on the business of a druggist afterwards?
Certainly not; it would be complete destruction to a man.

442. Lord *Wensleydale.*] Do you think that the penalty should be imposed upon the master, or upon the individual who actually sells the article?
Upon the individual; it is a personal offence; the master might take all the precautions he could, and yet find that the servant would not obey his orders.

443. *Chairman.*] You have spoken of intentional poisoning; now, with respect to unintentional poisoning, can you suggest any precautions to the Committee which you think it would be useful to insert in the Act?
I approve of the precautions which have been suggested with respect to the bottles and packages, and so on; I think that those would be proper; I do not see anything else that can be done by legislation; the great difficulty is in securing properly qualified men; if that could be done, that would to a very great extent prevent the evil.

444. What do you think would be the best shape of bottle to use for the purpose?
It must not be hexagonal, and it must not be octagonal, because those are already used. There is nothing but the triangular left that I know of as a regular figure.

445. Lord *Somerhill.*] Although you could not prevent people using those bottles afterwards for other purposes, you might prevent persons from selling poisons in any other but those bottles?
Yes, that is what I have stated.

446. Lord *Wensleydale.*] That would not be a complete prevention; but it would be a check, as far as it went?
It would be a check.

447. Do you think that the introduction to the public of the names of a great many other poisons, by mentioning them in the schedule, would be attended with more mischief than the public would gain benefit by a restriction upon the sale of them?

I think so; I think a great deal too much has been published about poisons.

448. But as soon as it is discovered that they are used for poisoning, is it not wise to prevent the sale of them?

If you could do so; but then you get into the other difficulties I have been alluding to to-day.

449. *Chairman.*] Is not it the case, that on the occasion of every trial for poison there is a great deal published upon the subject, because there are always chemists called to explain the nature and operations of the poisons?

That is very true: I endeavour to avoid answering such questions when I am not forced to answer them.

450. Earl of *Hardwicke.*] Do you think that the introduction of legislative measures for the purpose of noticing or restricting the use of poisons has tended very much to enlighten the public mind with regard to them?

With respect to arsenic it has; but I do not know that it has with respect to anything else.

451. Do you not think that it is better to trust to the discovery of poisons by examination after death, and to visit with punishment those who poison, than to attempt to legislate to prevent the giving of poison?

I think so; I conceive that no great benefit is gained by the restriction; I should rather depend upon perfecting the education of those who have to dispense medicines than upon restriction.

452. Although arsenic is a deadly poison, is it not at the same time a poison that is very easy to discover after the death of the person poisoned?

The easiest of all.

453. Would it not have been, upon the whole, better to have allowed matters to rest as they did, with the impression upon the public mind that there was nothing else but arsenic that could be used for poisoning, and to let the law take its course, by discovery after death, rather than to introduce these debates and legislative measures, whereby much knowledge has been given to the public upon the subject of poisons?

I think so, decidedly.

454. Lord *Somerhill.*] Do you think that, practically, in this country you can confine scientific knowledge to the higher classes of society?

No; but they are much longer arriving at those matters, which are known only to scientific men.

455. Do you think it desirable that they should be left in ignorance: take even the class of farmers, and the numerous classes of trades mentioned in the exempting clause of this Bill; do you not think it desirable that they should extend their knowledge of chemistry?

Yes, of the great facts of chemistry; but they need not have a knowledge of the facts connected with the administration of poisons, because you have a class of men who are always at your beck and command, whose special duty it is to be acquainted with these things. It is not necessary to have your servants acquainted with medicines dangerous to life. I have met with a few cases where the ignorance of working men has done mischief, such as a man giving sulphuric acid to horses, to smooth their coats, and giving it in too large a quantity, and killing. But, generally speaking, I do not think that much mischief arises from the ignorance of the working classes of the nature of poisons.

456. Earl of *Hardwicke.*] In reference to the question of the knowledge of poisons, supposing that, for the sake of the discussion, we divide the population into three classes, the upper class, so called, the middle class, so called, and the lower class, so called; which of these classes do you think has the greatest knowledge of the application of chemistry as to poisoning matters, and other branches of chemical knowledge?

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The middle class, certainly. Until lately the upper class did not study chemistry so much as they ought to do.

457. Lord *Somerhill.*] In my question "by the higher classes," I meant the educated. Do you think that you can confine a general and extended knowledge of chemistry to merely the educated classes?

Certainly not. You have it now made as common as possible all through the kingdom; that is, you get a smattering of chemistry made common, but you do not get a complete knowledge of chemistry.

458. But do not you think that that smattering is of great use to the classes who possess it?

No. I think that there is no art or science to which the aphorism that "a little knowledge is a dangerous thing," is so applicable as chemistry. I have seen more hundreds and thousands of pounds thrown away by persons possessing a little knowledge of chemistry than I have by persons who are perfectly ignorant of it.

459. Do you apply that even to the use of chemical manures by farmers?

Yes; till very lately, when they have got better acquainted with them, in the last four or five years.

460. If within the last four or five years you think that the farmers have greatly increased in their elementary knowledge of chemistry, do you think that they are likely to make much greater progress in the next four or five years?

Yes, no doubt of it. There is no doubt that the agricultural department of the world has improved very considerably in consequence of lectures, and the introduction of mineral manures; but till within a very few years they were very deficient.

461. In other classes, besides the agricultural, has not a small smattering of chemical knowledge been found of great use; take photography, for instance; is not that so?

Yes. As to the action of light, they have some acquaintance with it practically, but not with the theory; none of them know anything of the theory.

462. But without having any notion of the theory, if they know practically how the results are obtained, is not such knowledge as that useful to other classes besides farmers?

There is no doubt that such knowledge is beneficial to all, except the evil-doer.

463. Lord *Talbot de Malahide.*] Do you consider that the knowledge which the public have obtained of the nature of poisons has been chiefly by means of legislative enactments, or by trials in courts of justice, and publications on toxicology?

There is no doubt that the trials have contributed towards it; but there have not been many cases brought before the public, with the exception of strychnia, and one or two other cases referring to hitherto unknown poisons.

464. And antimony?

Yes.

465. But arsenic is the only poison with respect to which there has been an attempt to legislate hitherto?

Arsenic is the only one, so far as I know.

466. Lord *Wensleydale.*] And poisoning by arsenic has been very much stopped?

Yes.

467. *Chairman.*] Will you have the goodness to send to the Committee a list of the poisons which you think should be included in the schedule?

I will do so.

The Witness is directed to withdraw.

JOHN HAMMILL, Esquire, is called in, and examined as follows: *J. Hammill, Esq.* 16th June 1857.

468. *Chairman.*] HAVE you seen the Bill that has been brought into this House for restricting the sale of poisons?

I have had the Bill put into my hands, and I have hastily looked over it.

469. In your position, as a police magistrate, has the subject of poisons, and the danger arising from the sale of poisons, come before you?

I have seen many instances during the last 10 years while I have sat as a magistrate for Worship-street, in which I have thought that poison has been most incautiously sold to people whose appearance must, I thought, have denoted to the druggist who sold it that they were in a wretched condition, and not fit to be trusted with it. The article which has been sold to them chiefly was laudanum.

470. Has that led you to the opinion that some legislative interference would be of advantage to the public in that respect?

It has long been pressed upon me by the surgeons attending the various hospitals in that part of London that there ought to be some legislative interference in the matter; but as to the mode in which it ought to be carried into effect, I should fear there would be great difficulty.

471. The chief article to which you think that that legislation should apply, is with regard to the misuse of laudanum?

That is what has been most frequently before me. I think there was one case of arsenic during those 10 years; and last year I think there was a case, arising from a substance which is not classed as a poison, sulphate of potash; it was the case of a man who had no intention whatever of administering poison to his wife, but the wife being, as she thought, in the family-way, suggested to her husband to buy sulphate of potash, and she administered it to herself, and caused her own death in that way.

472. What was her intention?

To procure abortion; and the husband assisted her in that intention, and I, of course, found it my duty to commit him for the murder. He had no intention of poisoning his wife, but simply to aid her in her wish to get rid of the fœtus.

473. Lord *Somerhill.*] In noticing the want of a restraint upon the sale of poisons, do you refer chiefly to accidents and carelessness, or to intentional poisoning?

I refer to the sale of poison to wretched objects. I think the druggist ought to have seen that he was dealing with people that he ought to have been on his guard with, that is, if they presented the same appearance to him that they did to me.

474. Do you mean that they were persons who meant to commit crimes, or that they were liable to make a mistake in the use of the poison?

Persons who intended to commit suicide.

475. Earl of *Hardwicke.*] What reason had you to think that they wanted to commit suicide?

They were charged with suicide, and I thought their wretched appearance made them appear likely to commit it.

476. Was there any evidence to show that they intended to commit suicide by taking laudanum?

No. My notion was, that when a person presented himself apparently in that low and desponding state of mind, and asked for laudanum, a druggist of education, a man in a respectable class of life, ought to have been very cautious before he trusted him with it.

477. Lord *Wensleydale.*] They were brought before you as having made an attempt to destroy themselves?

Yes.

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478. Lord *Talbot de Malahide.*] Do not you consider that to persons of certain habits laudanum is a necessary of life?
I am not able to speak with any great knowledge upon that subject; but I hear it frequently said that it is taken by some persons in that way.

479. *Chairman.*] Has it come before you that it is largely sold to the poor for other purposes than for suicide?
No; I have no knowledge upon that subject more than by hearsay.

480. With regard to the misuse of any other kind of poison, have you known cases where ergot of rye, or savin, or other things of that kind, have been used as poisons?
I do not remember having had any case of that kind.

481. Has your acquaintance with poisons so brought before you been entirely or chiefly with laudanum, or is there any other poison which has come before you?
The only other I think is that which I have just now mentioned, namely, sulphate of potash. The druggist who came, in that case, stated that he had not been asked for such a thing before, though he had been in business upwards of 20 years; in fact he at first said that he had not got it among the articles he sold, but he afterwards said that he had.

482. Would you recommend that any restriction should be imposed upon the sale of laudanum, and that if a very poor or very wretched looking person wished to buy a little laudanum, a druggist should be liable to a penalty for selling it to him because he was a poor looking man?
Not exactly for being a poor looking man, but on account of his distressed state of mind.

483. As indicated by his appearance?
Yes.

484. Do you think you can legislate for such cases?
I do not see that you can, because a poor man might want it for the toothache, or any thing else, as much as a rich man.

485. And he might look very distressed in consequence of a bad toothache?
Yes; but when I say "distressed," I take all the various indications, not only his countenance, but his dress, and his wretched appearance altogether.

486. Do you think it would be desirable to insist upon a record being kept of all sales of poisons, and to say that no person shall be allowed to buy laudanum without signing his name, and giving his address, and saying for what purpose he wanted it?
There are many poor people who may be *bonâ fide* in want of it who could not sign their names.

487. But they might put their mark?
They might put their mark.

488. Lord *Somerhill.*] Could they be in want of it for any proper purpose without being able to state clearly for what purpose they wanted it?
No; but it does not follow that the purpose stated is a *bonâ fide* one. I think that in one case I remember, a very poor person indeed went to four different places, and got the requisite amount in small amounts; I think it was 1 *d.* at each of the four places.

489. Lord *Talbot de Malahide.*] Have you had any cases of poisoning by arsenic before you?
Many years ago, when I first sat at Worship-street, there was a case of a very young boy poisoning his grandfather with arsenic.

490. Lord *Wensleydale.*] How long have you been at Worship-street?
Ten years.

491. Lord *Somerhill.*] Do you think it would be any great hardship upon that class of persons if you were to require that they should produce from their employers a certificate of their being persons who could be trusted with the use of a small quantity of laudanum?
I think any class-legislation of that sort would press upon them.

492. Do you think that such a restriction would act oppressively upon them, or beneficially?

It is difficult to say; the question is as to the *bonâ fide* demand of those people; there may be certain occasions of a child being ill, when laudanum might be immediately necessary, and a formula of that kind might be very difficult to comply with.

493. Earl of *Hardwicke.*] Supposing it was the law of the land that everybody that wanted to buy a poisonous drug should be obliged to come to a sitting magistrate, and to get from him a certificate, stating that this person was a fit and proper person to purchase such an article; do you think that that would inconveniently increase your business as a magistrate?

I think it would be a great impediment to the administration of medicines in proper cases, because there are few medicines which are not poisonous in large quantities.

494. Would it affect you inconveniently as a magistrate in the administration of justice?

It would be calling upon a magistrate to say whether a medicine should be administered or not.

495. Do you think it would bring many demands upon your time?

I hardly feel able to answer that question.

496. Lord *Somerhill.*] The magistrate of course would not give certificates to persons that he did not know personally?

Perhaps I do not know a single person in the district to which I go, in Worship-street, so that it would be encumbered with delay and difficulty. I should say that there is less poisoning in Worship-street by people who intend to commit suicide, because there is a canal in the district, and they generally have recourse to the water.

497. Are there any suggestions that you wish to make to the Committee, except what you have mentioned as to laudanum?

Not any.

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned till Friday next, Two o'clock.

Die Veneris, 19° *Junii* 1857.

LORDS PRESENT:

Lord President.	Earl Stanhope.
Duke of Somerset.	Earl of Munster.
Marquess of Salisbury.	Lord Talbot de Malahide.
Earl of Derby.	

THE LORD PRESIDENT in the Chair.

Mr. FREDERICK CRACE CALVERT is called in, and examined as follows:

Mr. F. Crace Calvert.

19th June 1857.

498. *Chairman.*] ARE you connected with any body of persons who have at all turned their attention to poisons?

Yes; I have been connected with the Sanitary Association of Manchester, who have devoted a good deal of time to the subject of late.

499. Are you able to state whether that association has paid any attention to the Bill which is now under our consideration?

I believe they have.

500. Can you state whether they approve or disapprove of it generally?

I believe they highly approve of it.

501. Will you state what are the reasons which appear to them to make any such measure necessary?

In our working population the facility with which persons can get possession of poisons greatly increases the number of crimes, and also when a crime has been committed, there is a difficulty in tracing where the poison has been bought. In two or three cases in which I have been myself employed as an analytical chemist the case has failed from that very cause, from not being able to prove where the poison had been purchased.

502. Then you think it is an object which the Legislature ought to attempt to gain, to prevent the facility with which poisons are obtained, and to make it more easy to trace the poison when it has been used for murderous purposes?

Yes.

503. Will you state what is the general character of the poisoning cases to which you allude?

There are especially two poisons used. Arsenic and sugar of lead are the most frequent poisons used among the working people.

504. With respect to arsenic, there is an Act restricting its sale; is that Act insufficient for the purpose of enabling you to trace the arsenic to the person who has sold it?

Entirely; the pharmaceutical chemists and druggists do not appear to have at all followed out the wishes of the previous Act. I do not think that the law has been sufficiently enforced.

505. Duke of *Somerset.*] Do you mean that arsenic is sold not coloured, as is provided by law?

It is sold not coloured.

506. Then those persons are liable to a penalty for transgressing the Act?

They are.

Mr. F. Crace Calvert.

19th June 1857.

507. But the Act is not enforced?
No; there is nobody to enforce it, as it appears to me; that is the great fault of many of these measures; the laws are very good, but there is nobody to see that they are carried out.

508. Marquess of *Salisbury.*] Are there not many manufactures where coloured arsenic would be perfectly useless?
Yes.

509. Then in those cases it must be sold without colour?
Of course.

510. And is that a breach of the law?
Not in that case. I believe that the law only says that it is to be coloured when it is retailed.

511. *Chairman.*] Do you think that unintentional poisonings might be, at all events, diminished in number by a legislative measure?
I believe so. I believe that several of the provisions which are in this Bill will meet that purpose by separating the drugs, and making the various bottles of different colours; all those regulations appear to me most valuable; they are adopted in Prussia, and various parts of the continent.

512. Are you able to state any cases which have come under your notice of unintentional poisonings which at all bear upon the question?
Not any special cases, excepting those which I have had occasion to read and notice in scientific records; none have come under my especial attention. I have stated the poisons which are used in our neighbourhood. I forgot to mention laudanum, the use of which is also exceedingly frequent among the children.

513. Is it applied to children with the intention of killing them, or merely as a quieting draught?
For both purposes.

514. Earl of *Munster.*] It it applied under the name of "quietness," is it not?
Yes; that is where they do not intend to poison. There are chemists and druggists in Manchester who sell as much as 12 and 15 gallons of laudanum preparations weekly.

515. Marquess of *Salisbury.*] Is there not a medicine called "Daffy's Elixir," which is in great repute?
There are several preparations.

516. Those are composed of opium, are they not?
They all contain more or less opium. I may mention that I have recommended to the Sanitary Association of Manchester, that a substance should be used (I believe that a copy of the Committee papers was forwarded to the noble Chairman) called "carbo-azotic acid."

517. Duke of *Somerset.*] You want that to be inserted also?
I believe that it would be a valuable substance.

518. *Chairman.*] What is it made of?
It is an organic acid, which is obtained by the action of nitric acid on various organic substances.

519. Marquess of *Salisbury.*] Is it coloured?
It has three or four different properties.

520. Duke of *Somerset.*] What are you recommending it for?
To be mixed with poisons.

521. To be sold mixed with poisons?
Yes.

522. *Chairman.*] As a colouring, instead of indigo or soot?
Yes. If the Committee will allow me, I will state in a few words the object of it.

523. Will you state its advantages?

Its advantages are its intense bitterness, one grain being sufficient to give an intense bitter flavour to 70,000 grains of water, a gallon of water.

524. Duke of *Somerset.*] Do you recommend this substance to be mixed with all poisons?

Yes; instead of soot or indigo.

525. Is it a vegetable substance?

Yes.

526. Would you mix it with arsenic?

I would.

527. Would it not be easily washed out?

No; because the object of it is that its colouring power is so great, that it would require a large quantity of washing; it is not very soluble; it would require a quart of water to dissolve one grain out, and the consequence is, that the arsenic would be dissolved as well.

528. *Chairman.*] Has it not the effect of colouring the skin without affecting the health?

It has. A third property which I might mention is this, that if a person takes this substance three days, and a grain per diem, he gets coloured perfectly yellow, as if he had the jaundice; so that it is a kind of self-detector, if I may so express myself; that is to say, that attention would be drawn to him at once, and a medical man would say, "This man has been poisoned." It has been used for some years past in dyeing silks. I believe that the application of it which I now suggest is partly my own idea.

529. Is it expensive?

No; it is about 5 *s.* or 6 *s.* a pound.

530. Duke of *Somerset.*] For the purpose of mixture with arsenic, we have been told that it would be better to mix with arsenic something that was about the same weight as arsenic, so that it would not be so easily separated?

There is no doubt it would be better.

531. It was said that we should mix with it the black oxide of manganese?

You could not, of course, separate the black oxide of manganese with the same facility by washing as you could indigo and soot, which have been proposed; but at the same time, when once put into a vessel with the arsenic, say a teapot or a coffeepot, the manganese would remain with the arsenic at the bottom, or with the tea leaves, and the party taking the poison would not be able to know that the article had been poisoned; there would be nothing to draw attention to it.

532. But it would lead to a detection afterwards, by the dark colour which has been suggested?

In the case of arsenic, detection, I am happy to say, is not difficult; there is no difficulty in detecting the arsenic: the great object in view is to prevent its being taken.

533. Does not the black colour tend to prevent its being taken?

If that black colour would dissolve, and render the liquor disagreeable to the eye, or noxious to the taste, of course it would be so; but I think that a mere insoluble material mixed with the poison would not effect the object which your Lordships have in view.

534. Lord *Talbot de Malahide.*] The colouring of the arsenic, I presume, is chiefly directed against unintentional poisoning, more than against intentional?

It is.

535. And you would consider that any substance which combined chemically with an object, would be more effectual than one which merely combined mechanically, such as soot; would this acid combine chemically with arsenic?

It would not. Both being acids, they would remain perfectly mixed together.

536. Marquess of *Salisbury.*] Is this substance prepared from charcoal?

This sample, which I have the honour to lay before your Lordships, is prepared from coal tar.

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537. *Chairman.*] What other advantages do you consider that it would have as a colouring material?

I have mentioned to your Lordships the taste, its intense bitterness, and also its intense colouring power, the peculiar property which it has to produce a coloration of the human tissues.

538. Would it be as easy for chemists in different parts of the country to procure this substance as it would be for them to procure soot or indigo?

Fully. It is so very easily prepared, that there would be no difficulty on that point.

539. Objections have been raised by the chemists as to the extreme difficulties which would be placed in the way of their business by imposing any of these restrictions, it being alleged that they would, in many cases, oblige them entirely to give up their business. With the experience which you have had, do you think that that would be the case?

I am quite of a different opinion. I think that, as a general rule, it would only require from them a little more care, and their personal attention; whereas at present the matter is often intrusted to the hands of children and women.

540. Do you consider that there is any objection to a certificate being required for a person buying poison?

Not the least; on the contrary, in France, where I was for many years, and was under the French Government as a chemist for about seven years, during that time I had a great deal to do with pharmacy, because I was a member of the Society of Pharmacy in Paris, and am so still. There the laws on poisons are very stringent, and they do not interfere with the general management of the business of the chemists.

541. It was stated rather upon hearsay, that the law with regard to poison was not strictly enforced in France. What is your experience on that point?

Quite the contrary; they are very strict indeed.

542. And as far as you are aware, no difficulty has arisen from those restrictions having been imposed?

Not the least.

543. Duke of *Somerset.*] How are they very strict; who enforces the law which produces that strictness in France, which you say is wanted here, because the law is evaded?

The pharmaceutical chemist is liable to be brought before a court of law, and to be sentenced, which has been the case. In this country, in most cases, there is an excuse found; they almost always find some means of letting the party, who has been selling these poisons inadvertently, escape. On the continent they are very severe. I could bring before the Committee books, which would show that the parties offending have been condemned to imprisonment for years. The next point is, that the pharmaceutical chemist in France is under the surveillance of a select body appointed by the Government to inspect twice a year the whole of the pharmacies, to see that all the drugs are in a proper condition for being administered; and those persons are the parties who also see that the poisonous substances are under the proper regulations made by the law.

544. As you have had seven years' experience in France, can you state how a person who wanted a little opium in a town would proceed to get it; what it would be necessary for him to do?

I can speak from personal knowledge; you are obliged to go to a medical man, and get a paper stating it.

545. In the first instance?

Always.

546. Before any shop-keeper will give it to you?

Yes. When I was in Paris last year, I was ill, or felt very unwell with a cold, and I went to a shop, and asked for a little laudanum; the pharmaceutical chemist asked me if I had an order; I said, no, I had not, for I had just arrived from a journey, and had not had time to get one; he said "I am sorry

to

to say, sir, that I cannot give it you; I will give you three or four drops willingly in a solution, but I cannot give the quantity that you ask me for." I asked for an ounce, and I was distinctly refused.

547. Would you recommend such a severe law as that to be enacted in this country?

I do not see the inconvenience of it.

548. You do not think that people would object to it?

I do not think that the people would; I think that the pharmaceutical chemists would.

549. Do not you think that the public would do so; the people who take opium in its various forms?

It would perhaps be a very good thing; it would prevent many people being slowly poisoned, who are now indulging to a very severe extent in taking opium, to the detriment of their health.

550. *Chairman.*] Of course not objecting to the requirement of a medical certificate, you would not object to a certificate from a householder?

Not at all; it is not necessary to have the certificate of a medical man exactly, nor is it so on the continent. In France, it is not necessary to have a certificate from a medical man; you may have one from any person attached to the police, or you may go with the keeper of the hotel, who is a known person to the chemist and druggist, and then the chemist and druggist will give you the laudanum, or any other substance, because you are no longer a stranger: he recognises the person whom he is probably acquainted with, and knows that the purpose for which you are going to use it is an honourable purpose.

551. Duke of *Somerset.*] Many articles which are poisonous, are wanted for the purposes of trade; how does a poor Frenchman get them?

There is no restriction if the poison is employed for trade purposes.

552. If he wants a little arsenic for trade purposes, he can obtain it?

He must buy a certain quantity, and he must go to the proper shops, which are wholesale shops, and then of course it is entered in a regular register, and it is delivered for the purpose. The provision does not interfere with the wholesale; it is only for the retail.

553. Then, a poor man can get such a quantity as he wants for his trade, even a small quantity, I suppose?

I should say he could do so, because in that case it would be considered a commercial transaction, and the party from whom he would be buying it would know him.

554. Then he having got it, what security is there that it is not given or sold to anybody else who wants to get it from him?

There is none; you cannot prevent poisoning; you can only restrict the facility of poisoning.

555. Do you think that in France the strictness of the law has prevented poisoning?

There is not a doubt of it in my mind. I can give the reason why I draw this conclusion. As a professional chemist, I read a great number of scientific books from France and Germany, and books published in England. If you compare the number of cases of poisoning which come under notice in reading, it is very rare that you see any case recorded in the scientific French books. In our English books it is repeatedly the case. If you take the Pharmaceutical Journal, a well-known publication in England, you will find such cases there recorded very often. I should say that in every number there are some cases of poisoning, either by one kind of substance or by another kind of substance. If you take the Journal de Pharmacie, which is a journal exactly similar, it is seldom that you find a case of poisoning there recorded.

556. Lord *Talbot de Malahide.*] You allude to accidental poisoning, I suppose?

Both accidental and intentional.

557. Duke of *Somerset.*] You have alluded to those poisonings which are recorded in the Pharmaceutical Journal?

Yes, I am taking the Pharmaceutical Journal as an example.

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558. As an example of what is going on in this country?
Yes.

559. That applies, of course, to the three kinds of poisoning, to intentional poisoning, to suicide, and to unintentional poisoning?
Yes; that journal takes up those cases from various periodicals and journals; it condenses them, and brings them under the notice of the reader.

560. What precautions are there in France against unintentional poisoning with regard to chemists; are the poisons kept in any particular bottles, or locked up in any particular cases in the shop, or in what way are they kept?
That is not done in France; in Germany it is so.

561. Supposing a shopman is present, and the head man of the shop is not present, the shopman, I suppose, can equally serve out the poisons?
Of course he can serve them as well as the master upon the proper document.

562. But he must have the proper document given him?
Yes, or he is liable personally, and not his master. It is necessary that I should state, that on the continent young men who practise pharmacy undergo very severe examinations. They are obliged to be attached seven years to a chemist and druggist, and besides that, they are obliged to follow three years' lectures, and undergo a certain class of examinations. The pharmaceutical body in France is a very superior class of men; and some of the leading scientific men of France have been pharmaceutical chemists. In this country I suppose your Lordships are aware that that is not the case.

563. That applies to the head man of the shop; but what is the case with regard to the shopman who is under him?
He must have a proper diploma of qualification before he is allowed by the law to serve out drugs, or to make any kind of preparation.

564. Will you state to what articles in France this law applies; what do they call poisons in France?
I believe that there is not in France any special list; in fact, I am certain that there is no special list. They leave it to the knowledge of the pharmaceutical chemist to decide whether the dose and the quantity which is given is capable of destroying life.

565. If a person goes to a shop, and gets a very small quantity of a poison, which in a larger quantity would destroy life, he may get it without any certificate?
Yes.

566. Then he may go to another shop, and equally get a little without a certificate again, I suppose?
Yes; and that has been the case in one or two instances which are known, and persons who have been determined to poison themselves have arrived at it by that means.

567. Or, in order to poison somebody else, they may do it?
Yes; but I only know one or two instances of the use of laudanum. You will find them recorded, some few years ago, in the "Journal de Pharmacie." The party proceeded according to that system. He went, I think, to a dozen shops, and got three or four drops from one, and three or four drops from another. You cannot prevent poisoning. As I have stated, the object in view is to try and prevent the easy access to poison, and the opportunity of a low class of people especially getting with facility poison which they use.

568. *Chairman.*] To prevent suicide particularly is quite impossible?
Entirely.

569. But it would increase the difficulty, and increase the chances of detection, if a man was obliged to go to twelve different shops to purchase the dose necessary, would it not?
Quite so; and it also might be that he might be known, or there might be some

some clue, because in a man going to twelve shops, first of all there is a chance that one of those parties would recognise him as a person who came to his shop for a certain quantity of poison.

570. Marquess of *Salisbury.*] You stated in the beginning of your examination that there were a great many cases of poisoning at Manchester?
There are at Manchester, and among the neighbouring population.

571. Do you believe that to be intentional poisoning, or accidental?
Intentional in a great number of cases.

572. Do those ever come before the public in the shape of trials?
Yes.

573. Many of them?
I should say that every year there are about two or three cases which come regularly before some court of law, either at Chester, or at York, or at Liverpool. I myself have been in several cases.

574. There are about two or three cases of poisoning in the course of a year in the northern manufacturing districts?
Yes; but you must bear in mind, that the number of cases in which the evidence can be so far collected, and the whole of the case, so well arranged in a legal point of view, as to justify bringing prisoners up to trial, is few compared with the real number of poisonings which take place.

575. Upon what grounds do you state that?
I have been attached to the Medical School of Manchester for six or seven years as a lecturer on chemistry, and I have twelve colleagues. Most of these colleagues, I think, if they were to see a case of poisoning, unless they saw it quite clear, and they thought in their minds that they could really make a case out, would not notice it; and I think that is the case with most medical professionals.

576. Then those cases have not generally come before the notice of the public?
No; I am only saying that the cases which come before the public are a small number of those which really take place; that is my impression.

577. Is the intention usually to destroy life, or to procure abortion?
I think both; that is only my impression; I do not state that it is so.

578. *Chairman.*] You have already stated your opinion that no difficulty and embarrassment to the chemist ought to be occasioned on requiring a certificate, and that you think that it would be an advantage to the public as a safeguard to them, and would not produce any individual inconvenience. Have you considered the other restriction of this Bill, namely, the necessity of selling the poisons in bottles of a particular shape?
My impression is, that that goes a little too far. I do not think that it is necessary to carry it quite so far as that. But I think that the provision of the Bill which makes it a duty to separate those substances which are of a decidedly poisonous kind from those which are less so (for all substances may be considered as poisonous in certain doses), is a great improvement.

579. There is one objection which has been made to it, which is, that some of the objects which are particularly of a most poisonous character, and which are most often used for poisoning, are in constant use; so constantly in use, that the poison closet would be perpetually open?
I think that they might be put in a different part of the shop. I think that at the present time it is to be regretted that they mix up those poisonous substances with others; it is exceedingly easy for a person to take a bottle by mistake one for the other. Your Lordships are also aware that very few of these pharmaceutical chemists have really the necessary knowledge and talents (I am sorry to say so) to judge of the quality of their own drugs, because in this country a young man goes into a shop, and, excepting within these last few years, during which there has been a Pharmaceutical Society established in London, and one just beginning in Manchester, these young men have not the slightest opportunity of getting any scientific knowledge. They simply know the drug by its appearance, and we know that there are a great number of

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drugs which are similar in appearance, such as sulphate of magnesia, which is not a poison, and sulphate of zinc, which is a violent poison; those two drugs are perfectly identical to the eye. Sulphate of potash is comparatively innoxious; oxalic acid is a violent poison, and I could cite a great many instances where, as far as the eye can judge, unless persons paid especial attention to it, they would certainly take the poisonous substance as well as that which is not so. Therefore the provision of the law, if carried out as far as practicable, would certainly tend, I think, to decrease these cases of accidental poisoning, which takes place from oversight or from carelessness.

580. Of course, after the recommendation which you have made of a certain substance being used to colour the poisons, you are of opinion that they should be so coloured?

Most decidedly; I do not at all say that the substance which I have recommended to your Lordships is the best, but I think that something of that kind would be of great advantage; or, that it should be added to such poisons as are not from the prescription of a medical man, or which are not for any commercial purposes, as, in fact, the Bill provides for. I think that a casual person coming in, and asking for any poison, should not receive it without its being coloured.

581. Duke of *Somerset.*] Would you mix a substance like this with liquids as well as with solids?

Quite so.

582. With everything?

I believe so.

583. Suppose that a person wants a poison for the sake of photography, and that he can only buy it mixed with this substance?

A case like photography does not meet at all the peculiar case, because in the case of photography, it is for commercial purposes. If a person wants drugs for photography, he will comply with the restriction of this law; he will bring two witnesses first of all, and if it is for anything like photography, the parties will soon know that it is for photography.

584. *Chairman.*] Is there not a provision in the Bill before us which would enable a person, upon the fact being stated in the certificate that the poison was wanted for a purpose for which colour was inapplicable, to procure it in an uncoloured state?

Yes, I think that that could easily be met.

585. Earl *Stanhope.*] Would not your suggestion tend very largely to increase the stock of articles which it would be necessary for a chemist to keep; I understand you that of all articles of a poisonous kind there should be two sets, namely, those wanted for casual customers, which might be used as poisons, and those which were required for commercial purposes; therefore the chemist must have two sets of every article?

I do not think that there would be that objection. Poisonous substances, either for commercial purposes or for any purpose of that kind, should not be coloured in any shape or form, but the party buying the substance would come under the provisions of this Act if it was not for a commercial purpose or a medicinal purpose, but required for mere ordinary purposes. For example, take the case of arsenic; in that case the pharmaceutical chemist would add to such poisons a certain quantity of colouring substance.

586. You propose that he should colour the poison on the spot?

At the time.

587. Duke of *Somerset.*] You said, I think, that the Arsenic Act is neglected because it is no one's business to enforce the Act?

It appears to me to be so.

588. Supposing that this Act were passed, the same case would arise again as the Act stands, would it not; whose business or interest would it be particularly to enforce it?

I think that that is the great defect of many of the laws which are made, that there is nobody to see that they are carried out. I think that that is the case here;

here; that is why I mentioned it. I think that there ought to be a proper officer attached to the corporation, or attached to any legal body, which your Lordships may think advisable, whose business it would be to see that this Act is carried out.

589. Then you would have particular officers throughout different districts in the country to look after the Act when it had been passed?

I think that in a great number of cases there are proper persons already appointed, if they were included in this law. For example, a Board of Health officer is a proper person to see it carried out; in our borough districts the sanitary officer would be the proper person. In many places in England the officer is already appointed; in other places the chief constable or some legal person could be appointed to see that the provision is carried out.

590. As far as I understood your explanation of the French law, there is no schedule there of poisons; there is no list of articles which are specially called poisons by the government?

None.

591. Every chemist sells what he pleases, but it is on his own responsibility?

Yes.

592. And in case of his having sold a poison without a proper certificate, he would be visited with a very severe penalty?

Very. He would be most likely broken, and prevented from ever being a pharmaceutical chemist again. The laws are exceedingly severe. I know one case which took place in St. Malo, in Picardy, where the man had given a larger dose of oil of bitter almonds than he knew should be given, and such as might prove fatal. The person died, and the chemist was imprisoned for several years; I forget the number. There is another case to show how severe the law is in France: I remember one case where a label was mistaken; an external lotion was given, instead of an internal draught: in that case the man was imprisoned for three or four years.

593. As an analytical chemist, are you at all cognizant of persons in the country who go about collecting herbs, and selling them?

I know that there are such persons.

594. Do not they frequently collect herbs which are very strong poisons?

Very frequently; but I have had no instance come to my notice where they have been used with the intention of destroying life.

595. Many of those poisons are of such a nature that the detection of them is more difficult than with many of the mineral poisons?

A great deal.

596. Should you not be afraid that, if we made a stringent law upon the chemist in the town, there would rise up another set of persons of a much lower description, who would deal in many of these drugs which were forbidden, or which were checked and restricted in the case of the respectable dealers?

It is only my impression; I have no means of judging; but I should say that in that case the party wishing to commit a crime, would not know very likely that this party had herbs of that peculiar kind. It is not natural for those persons to think of such a means; they might of course employ it.

597. You spoke of having read the Pharmaceutical Journal?

Yes.

598. Have you not read there of cases where itinerant vendors go about and sell things in the market, and even that they have announced to women who have come there that though they had not any savin that week, they will have some the next week?

Yes, I know that perfectly well; but the cases are comparatively rare; there are in our districts persons who sell to women drugs, not perhaps for the purpose of poisoning their husbands, but certainly of injuring their health: that is an exception to the rule. I should not like to accuse the whole of the pharmaceutical body on account of the low conduct of a few parties.

599. I do not apply this to the pharmaceutical body, but to persons of that

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sort who go about, of whom I have read in this journal, called the "Pharmaceutical Journal"?

Yes, there are a class of people who go about the large towns, and they give lectures, and so on; they are a very objectionable class of people.

600. Considering the large quantity of opium which is consumed in this country, and consumed, as we are told, by the manufacturing, and in some cases by the agricultural population, do you think that if that restriction which you propose to make to prevent its sale were made, these itinerant vendors would not be found to let the poor people have it in that illicit manner?

I believe that if they were vendors of drugs, which they must be, they would come under the liability of this Act, and therefore you would prevent their selling those drugs, as you would prevent any pharmaceutical chemist from doing so.

601. *Chairman.*] If it is a very profitable trade, is there anything to prevent the herbalists now enlarging their stock in trade by opium; they can do it now without any restriction, and you must connect them in some way with intentional murder, in order to inflict any punishment at all upon them after the murder has been committed; would it not be desirable to have some restrictions of this sort in a legislative Act, which would make them liable to punishment if they supplied this drug in any way whatever, without the requisite precaution?

Of course: the law, I think, should be so made as to comprise every class of vendors of any description; any person vending drugs or herbs, or any substance which may prove injurious to man.

602. Lord *Talbot de Malahide.*] Do you consider, or do you not, that there can be any security against unintentional or accidental poisoning, as long as any uneducated person can sell or dispense poisonous drugs?

I think that it tends especially to increase it; that the great object which the legislators of this country should keep in view should be, to enforce gradually upon the pharmaceutical rising generation of this country the same regulations, or similar regulations, as those which have been enforced upon them in France and Germany. I think that it is disgraceful to our nation to see the state in which pharmacy is generally carried out in this country. The chemists sell drugs, and very few indeed have a knowledge of them. I will take Manchester, because I have been there now 12 years. In Manchester there are not more than five or six chemists and druggists in all the town who, if you took any substance out of their pharmacy, and asked them this simple question, How is this prepared, or is it pure? would know. I can give your Lordships an example. Last year I was examined before the Committee of the House of Commons on the adulteration of drugs and food. I got the secretary of the Sanitary Association in Manchester to buy 140 drugs out of 12 good shops in Manchester. I analysed those drugs. I forget the figures, but I think there were 108 or 110 out of the 140 which were not of that degree of purity which is prescribed by the Pharmacopœia of this country.

603. Duke of *Somerset.*] You are acquainted with the French law; are you acquainted with the law of Germany at all?

I am not. I am an honorary member of the Society of Pharmacy of Paris. If it was interesting to your Lordships to have any information, I should be most happy to get it for your Lordships, in the shape of official documents bearing upon the law.

604. The French system would be totally inapplicable to this country, as, according to your statement, the chemists are far too little educated to be fit to be entrusted with that sort of law?

Quite so. You cannot make the law so severe or so stringent in this country as it is in France, because the men are not prepared with the knowledge to meet it.

605. We must first educate our chemists before we can do it?

Yes, before you can be so severe with them.

606. *Chairman.*] Are there any observations which you have to make on the amendment of the Bill?

I should

I should simply suggest, that the provision which appears to me rather too stringent is the one about the bottles; I think it interferes too much. I would also suggest a clause, as I have stated, to see that the Act is carried out.

607. Have you looked at Schedule A. and Schedule B.?
I have.

608. Do you see any objection to them?
No. The question of a list is very doubtful. It may have some advantage with many of the druggists, principally in the little villages and little towns. Perhaps it may draw their attention to the fact that these preparations are dangerous; they may not be aware of it: that is the only advantage.

609. Duke of *Somerset.*] You will observe that there are a great many articles which are not included in this schedule which are equally poisonous with those articles which are included?
Quite so. And that is what I state, that I do not think that a list can comprise the poisons, and also that it is difficult to define really what is a poison, because a substance becomes poisonous according to the proportion taken.

610. *Chairman.*] Do you consider lobelia to be a poison?
It is very doubtful. I had a case of a woman, near Oldham. This woman was complaining of a violent pain; one of the herbalists went to her, and gave her a dose of lobelia, but it was mixed with too large a quantity of Cayenne pepper, and the poor woman staggered for half an hour, and died. Her stomach was brought to me, and I examined it. So little was known of lobelia, that I got some lobelia, and gave it to dogs, and gave it in large quantities, but the dogs did not die. So that it is very doubtful whether lobelia is a poison. The amount of information which we possess upon it scientifically is so very limited, that I am not justified in giving an opinion. It is toxical, but its influence is limited. It is used a great deal by the herbalists; it is one of the favourite medicines.

611. Lord *Talbot de Malahide.*] You have herbalists in France also, have you not?
Yes.

612. Are they under any restrictions?
They are exactly the same as the others; but they are not forced to pass such examinations. They cannot sell anything but herbs; not drugs; not what may be called medicines.

613. Are they obliged to take out a licence?
They are.

614. *Chairman.*] Have you any other suggestions to make which you think will be useful to us in the consideration of this Bill?
I think not. I think that the Bill includes all that can be wished, and I think, as I said before, that it cannot be made much better, in my own humble opinion.

615. Duke of *Somerset.*] Would you keep the schedule as it is, neither increasing nor diminishing it?
I think that it would be advisable to increase it; on this plea, to draw the attention of the pharmaceutical body of this country to these preparations being poisons. The amount of ignorance of these parties is so great as to the nature of the drugs which they use, that it is rendering them a service to tell them that a substance is a poison: therefore, I think that that provision would be very useful. I will take a town as an example: there is a place called Blackpool, in Lancashire; there are two or three chemists and druggists there; at one of those shops a woman serves. Whenever I have been in the shop, a woman has always served me. I am certain that if she has any knowledge of the subject, it is exceedingly limited. I believe that she buys these drugs labelled. A vendor from London comes, and she buys a certain quantity, and fills her bottles. I have several times asked her some little questions when I have been in her shop; but she is perfectly unacquainted with the matter; she has a regular shop

616. Do not grocers and other people also sell poisons as well as chemists?
I am sorry to say they do; it is to be regretted. On the continent they are not allowed to do so.

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617. You say that you would add other articles to the schedule?
I think so.

618. While you were telling the chemists what were poisons, you would be also telling the other people who wanted to use poisons what were poisons?
There is no doubt of that.

619. Would there be an advantage or a disadvantage in that?
I think that there would be an advantage, on this plea, that the Bill would be read by those who had to be affected by it, and would not be read by the whole of the public. Many people have no idea what aconite is, for example. They have the aconite bottle in their collection, and the Act would say to them, this bottle of aconite is poison.

620. Then you would not put the label "poison" on the bottle?
Not in the shop; it would only be the special character of bottle which is mentioned.

621. I thought you said that you would not have a special kind of bottle; that you thought it unnecessary?
I would in the shop, but not to retail; there is a bottle in the Bill to be of a particular kind when the poison is sold out. I think that is going rather too far; but I think that the bottles being kept separate in the shop, or coloured, would be advisable, on the plea which I have stated, that it is so easy to make a mistake.

622. *Chairman.*] Where did you receive your chemical education?
I was 10 years in France; I was two years in Normandy, and then I was appointed assistant to Monsieur Chevreul; then I was assistant at the Jardin des Plantes for five years; then I was chief analytical chemist of the Jardin des Plantes for two years; then I came back to England, my own country, and I have been in Manchester now 10 or 12 years, and am attached to the Royal Institution.

623. Lord *Talbot de Malahide.*] Are you a native of Manchester?
No, I am a native of Tooting; I was 16 years old when I went to France, and I came back when I was 28. I married a French lady, and I have three assistants who are Frenchmen, so that I have not lost the French accent.

624. Earl *Stanhope.*] Can you give us the date of the French law, which you have described, on this subject?
I cannot.

625. Lord *Talbot de Malahide.*] Is it to be found in the Code Napoleon?
It is since then; I believe that it has been within the last 10 years that there have been new regulations made. It is partly law, and partly under the Conseil de Salubrité in Paris, which is composed of some of the leading pharmaceutical men, and also some of the medical men of Paris, who together make regulations; those regulations go from them to the Minister of the Interior, and then the Minister of the Interior sends those regulations to the prefets in all the departments, and they see that the law is carried into effect. The Conseil de Salubrité is, in fact, what the Board of Health is in England; it looks after the sanitary state of both country and town.

The Witness is directed to withdraw.

Mr. W. Wilson.

Mr. WALTER WILSON is called in, and examined as follows:

626. *Chairman.*] WILL you state what opportunity you have had of considering the subject of poisons?
For the last two years, and more particularly for the last 18 months, my attention has been directed to the subject generally. My attention was called principally to the state of the law with reference to the very numerous cases of poisoning which had taken place; it occurred to me that something was necessary, and I devoted my leisure hours for the purpose of devising some plan which I thought would meet the exigencies of the case. In pursuance of those

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those views, I considered the subject, and have reduced them into a pamphlet form; I have also looked at the Bill as it has been brought in by the Government, and I have gone through it carefully, and it appears to me in some respects to be objectionable, and in other respects to be based upon sound and proper principles. It occurs to me that the whole tenor of the Bill, so far as the regulation of the sale of poison goes, should be conducted upon a different principle than what is set forth in the Bill. I submit that a Bill like that brought in, which is severe in its measures, and stringent in its regulations, is not so well adapted to meet the object, as a Bill which is moderate in its regulations, but which has an executive or an efficient administration for the purpose of seeing that the Act of Parliament is strictly enforced.

627. What is the machinery which you would suggest for that purpose?

I should suggest that the sale of poisons should be under the control of the Board of Excise, something similar to the sale of beer, the sale of tea, and the granting of licences, and that no person should be permitted to sell any poison to be specified in the schedule of the Act without first having obtained a licence to sell.

628. Would that licence be obtainable according to your plan by a money payment, or would it be subsequent to any examination as to the fitness of the person applying for it?

I should simply make it, according to the present state of the law, with reference to the sale of poisons, because I think that to interfere with the present system, which has been carried on so long, would be an infringement on those principles upon which the Legislature have permitted the sale of poisons to continue, and that it would not have a proper regard to the interests of those persons who are carrying on the trade and business of chemists and druggists.

629. Earl of *Derby*.] Then, what security would the Excise licence give you against the improper use of poisons?

The security would be this, that no person could sell poisons except he had obtained a licence, and that licence must of course be renewed annually, and at the same time all poisons which were sold must be subject to the same provisions and regulations as to entry in a book, and the attestation of a witness, as provided for by the Bill.

630. Lord *Talbot de Malahide*.] You would have no educational test as to those parties to whom you would entrust the custody and dispensing of poisonous drugs?

I think not, at present. I think that at present it would be rather too severe a test, and that it would interfere with the general principles upon which the trade of a chemist and druggist has been permitted to continue.

631. Duke of *Somerset*.] You suggest that no person should be allowed to sell poisons without a licence; how would you define poisons for that purpose?

I would leave that entirely to persons who are better acquainted with poisons than I am; the poisons should be specified according to the schedule of the Act.

632. Do you mean that you would put in every poison in the schedule of the Act?

Yes, every poison which is restricted; I should do so to all intents and purposes, as is done in the Act.

633. Earl of *Derby*.] Would not the practical effect of that be to require a licence for every chemist and druggist; are not the substances which may be poisonous, and which are necessarily mixed up in various preparations in every chemist's shop, so numerous, that by requiring him to have a licence to sell any of these poisons you would, in point of fact, debar any one from dealing in drugs without a licence?

As a rule that would be so.

634. Lord *Talbot de Malahide*.] Then, the only check which you propose would be the sum paid for the licence?

No; I think that the limitation of shops should be a consideration, and that by having the licences confined to persons who would be subject to the dis-

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cretion of the Commissioners of Excise, they would then have a discretionary power to increase or to decrease the number of licensed persons according to the requirements and wants of any particular place; and the sale of poisons which should be mentioned in the Act, should be regulated by the same conditions, as regards the sale of poisons, as are already specified in this Act.

635. Then, according to the demand, supposing there was an increased demand for poisons, you would increase the number of shops?
No, not exactly so, but in proportion to the number and the increase of chemists and druggists; it would also be an indispensable condition that they should obtain a licence previous to the sale of poisons.

636. Earl of *Derby.*] Then you would leave a discretion in the Board of Excise to refuse the licence, not with reference to the character of the person, but with reference to the number of druggists' shops already established?
Yes.

637. *Chairman.*] What do you think are the principal reasons which make it desirable that there should be a legislative measure restricting the sale of poisons?
I think that the present law requires alteration in this respect, that the sale of poisons is a free-trade question, and that it requires checking; that persons practising as chemists and druggists permit unqualified assistants and boys to dispense the poisons, thereby occasioning mistakes and accidents.

638. Duke of *Somerset.*] Would you compel every one who sold poisons to take care not to employ anybody unless that person had been properly educated?
So far as the sale of direct or active poisons is concerned, to be mentioned in the schedule, I should have it in these words, "that no person should be permitted to sell, excepting the principal, or a person of not less than 20 years of age."

639. Then you would take the test of age?
As an ordinary principle, I should.

640. In order to secure sufficient knowledge?
An apprentice not under the age of 20 years.

641. And you would give the whole power to the Excise to consider who should or who should not in every town and village have a licence?
I should.

642. Earl of *Derby.*] Do you propose to give a corresponding power to the Excise to withdraw a licence in the event of proved incompetency, or carelessness?
I should, upon the same principle as in the Bill.

643. Then practically you would give the Excise the power of preventing every man who was a chemist and druggist from exercising his calling?
If he violated the Act: it should not be, of course, in the discretion of the Commissioners of Excise to do it; but the Act in certain terms should express, that if he did certain things, or violated the Act in certain ways, then he should forfeit his licence.

644. You have said already that the forfeiture of the licence would be equivalent to the deprivation of his business?
So it would.

645. I mean of his business as a druggist, irrespective of the sale of poisons; that no man practically could carry on the business of a druggist without having the power of selling poisons?
He could not.

646. Therefore his business as a druggist would be taken from him by the action of the Excise, upon any carelessness being proved with regard to poisons?
I do not say by the action of the Excise, but by his own act; if he did an act contrary to the provisions of the Act, and by his repeated carelessness and neglect

neglect did those acts for which the Act should provide, then he would forfeit his licence by his own act and deed.

647. Earl *Stanhope.*] But you propose that the heads of the Excise should be the judges of that?

No, I do not; I simply propose that the Act should contain certain provisions as the Bill which is now before your Lordships, that where a person repeatedly did certain acts, then he should forfeit his licence.

648. Who is to be the judge whether he has or has not, in point of fact, repeatedly done certain acts?

I take that according to the Act itself.

649. In your scheme, whom do you propose to be the judges of the fact whether he has or has not committed such an act of carelessness as shall forfeit the licence?

I do not know that I have considered who should be the person, but I certainly should make it one of the conditions that he should forfeit his licence in case of repeated neglect and violation of the Act.

650. *Chairman.*] Is there any other suggestion which you think it desirable to make to the Committee?

In the 5th clause it is said that "no person shall sell any poison on any pretence whatsoever unless the sale be made to a person of full age." I think that that ought to be restricted to male persons of full age; as it is, it leaves it open to females; and, according to inquiries which I have made, I find that the proportion of females who obtain poison, and who commit acts of suicide, or other violation of the law, is very much greater than that of males.

651. Earl of *Derby.*] Among the poisons for the sale of which you would require a licence, do you include opium?

Yes.

652. Would you desire that any other restrictions, besides the possession of the licence, should be imposed upon the sale of poisons, such as requiring them to be kept in a particular place, and to be kept in coloured bottles, or any precautions of that kind?

Certainly; I should have the whole of those clauses which are in the Bill continued; but I think that the great disposing power should be left with the Excise, for the purpose of seeing that the Act is fully carried out, and that proper persons are appointed for the purpose of selling drugs.

653. Then you would desire to retain all the precautions and restrictions which are introduced into the present Bill, and to superadd to them the necessity of a licence?

Yes, with the exception, I might state, of the provision with regard to a medical certificate, and a certificate by a clergyman and by a justice of the peace; that I consider unnecessary.

654. Duke of *Somerset.*] You consider any certificate unnecessary?

Yes.

655. Having a licence?

Yes; I think that the responsibility ought to be thrown upon the person who receives the profit; that he ought to bear the burthen.

656. The decision of the Excise, as I understand you, is to be absolute; for instance, in the town of Leeds, where, as we have heard, there are an immense number of chemists, the Excise would have absolute power to consider how many chemists' shops were required, and to withhold a licence in respect of those shops which they considered were not required?

No; I would not apply it to those shops already in existence by any means. I should not interfere with one person who was in business; but that in the sale of poisons, so far as the future is concerned, the licences should only be granted to such persons according to the requirements of the place as the Commissioners of Excise might deem reasonable?

657. I thought you meant that the Excise were to judge of what the requirements of the place were?

Yes, so they are.

 658. Hereafter?

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658. Hereafter?

Yes; I simply throw it out as a suggestion, not as a principle to be relied upon. I would not interfere with any of the chemists and druggists who are now in business.

659. Earl of *Derby*.] Except so far as to subject them to the operation of this Bill?

Yes; I may also add there is one suggestion I wish to make; I see that there is no clause for the recovery of penalties, or their application, in the present Bill; but, in order that my views as to granting licences may be better understood, I may observe, that I propose that the Act should not only have a present, but prospective operation, as follows:—

1st. That every person practising as a chemist and druggist at the passing of the Act should be entitled to and receive from the Commissioners of Excise, on application by him, a licence to sell poisons.

2d. That until the expiration of three years from the passing of the Act the Commissioners of Excise should, in their discretion, grant a licence to any person whom they may think fit and proper persons to sell poisons.

3d. That at and after the expiration of three years from the passing of the Act no person should be entitled to receive a licence unless he shall have previously obtained a certificate from some recognised body of pharmaciens certifying as to his ability and fitness to sell poisons, and practise as a chemist and druggist; and that any person obtaining such certificate shall be entitled to receive from the Commissioners a licence at any time on application for that purpose.

I also propose that the sum to be paid for a licence should be moderate, say 10 *s.* 6 *d.* per annum, which would realize a sum sufficient to pay the expenses incurred by reason of the extra duties devolving upon the Excise department; and that the officers of Excise should have power to visit the shops of the vendors personally, to see that the provisions of the Act are carried out, and to take proceedings and other measures for enforcing the provisions of the Act, in the same manner as they are now authorised to do in other cases pertaining to the Excise. I believe that an Act based upon the principles which I have suggested would meet with the general support of the great body of respectable chemists and druggists in the country.

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned till Tuesday next, Two o'clock.

Die Martis, 23° Junii 1857.

LORDS PRESENT:

Lord President.	Earl of Derby.
Duke of Somerset.	Lord Somerhill.
Marquess of Salisbury.	Lord Talbot de Malahide.

THE LORD PRESIDENT in the Chair.

Evidence on the Sale of Poisons, &c. Bill.

W. T. Brande, Esq., D. C. L., F. R. S.

23d June 1857.

WILLIAM THOMAS BRANDE, Esquire, D. C. L., F. R. S., is called in, and examined as follows:

660. *Chairman.*] IT is almost unnecessary to ask you to state your qualifications for giving opinions on chemical matters?

I have been Professor of Chemistry at the Royal Institution a great many years; and I have been also Professor of Chemistry to the Apothecaries Company, which I believe is the principal cause of my coming here.

661. Have you paid any particular attention to the subject of poisons?

I have, at one time, a great deal.

662. Have you been often called upon to give opinions in criminal poisoning cases?

Not very frequently; they are generally more medical than purely chemical questions.

663. Have you had an opportunity of considering the Bill now under consideration?

I have not seen it.

664. Have you had an opportunity of knowing that there exists a good deal of evil in the present system of indiscriminately selling and dispensing poisons?

I believe there is no doubt about it.

665. Have you formed any opinion of the best mode of correcting that evil?

I have seen a good deal of the mode adopted at Apothecaries Hall, where, I believe, no accident of any consequence has ever occurred; it consists in not selling any poisons indiscriminately, but in requiring that they shall be sent for by a medical man, or by some manufacturer, or other person who is known as such to the persons employed at Apothecaries Hall.

666. Would they refuse to sell poison to any individual unless he came to them under those two conditions?

I think they would furnish laudanum or opium, or its preparations, in common cases; but if anything occurs to excite suspicion, which sometimes happens, they refuse it.

667. Have they any particular mode of conducting their business in this respect other than what is usually adopted by chemists who are well to do in trade; have they any mode of keeping their poisons separate from other medicines?

They keep their poisons separate from the other commonly used preparations in the dispensing department.

668. Do you know whether there is any practical inconvenience arising from that practice?

None at all, I believe.

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669. Can you form any opinion as to whether there would be any general practical disadvantage in requiring a certificate of some sort or other from persons who come to purchase poisons, and who are not known to the chemist, and do not bring with them medical prescriptions?

None at all, I think. I believe that if any person were to apply at Apothecaries Hall for any common poisonous substances, unless he brought a prescription or an order from a medical man, or an order from some manufacturer who is in the habit of dealing with them, they would generally refuse to serve the poison.

670. Do you think that that system would be applicable as a compulsory regulation with reference to chemists in general, or to those who deal in these poisons?

I presume that there would be no difficulty in it; I think it is very objectionable to allow poisons to be sold indiscriminately as they now are, especially in small country towns. It appears that a variety of poisonous articles are usually sold by people who keep miscellaneous shops, where they sell almost every thing.

671. Earl of *Derby*.] Admitting the evil, how would you provide for the sale of poisonous drugs which may be in some cases necessary to be used in those small villages?

I think that I would prohibit their sale by parties of the description I have just adverted to.

672. *Chairman*.] Do you mean by some system of licences?

That they must either go to a neighbouring large town, or to some licensed person, or to some other proper source.

673. Duke of *Somerset*.] Do you mean that you would prevent shops which you call miscellaneous shops from selling those poisonous drugs altogether?

Certainly.

674. Taking the small towns and large villages of this country, would not such a regulation as that be attended with very great inconvenience?

I can hardly answer that question from experience, but I should think not; I should think that, except in very small places indeed, there would be some person who might be entrusted with the sale of poisons, and who, from his education or position, would be a fit person to sell them.

675. If I understand you, you would not allow the miscellaneous shops to sell them?

No.

676. Then supposing, as is often the case, that there is no chemist in the village, would you allow no one in the village to sell these drugs at all?

Certainly not.

677. Earl of *Derby*.] In the case of certain common poisons which may be required for every day's use, such as opium, oxalic acid, and poisons of that sort, would it not be a great inconvenience to the inhabitants of the village to have to go to a town many miles distant before they could procure them?

I think with regard to opium that might be the case, but not with regard to oxalic acid.

678. Is not that an article that is constantly in use for ordinary domestic purposes?

It is, a good deal; but there are other substances which might be substituted for it.

679. *Chairman*.] I do not quite understand your proposal; would you limit the sale of poisons to druggists, or would you have a licence given, after examination, to all persons who chose to present themselves as wishing to sell poisons?

I have not maturely considered that subject; my opinion is, that either a properly educated chemist and druggist, or some other properly authorised person, having been examined, or being otherwise known as a proper person to be trusted in such a matter, might sell poison or dispense poison; but I am certainly of opinion that no poison ought to be dispensed by a number of persons who now are in the habit of retailing it.

680. Will

680. Will you have the goodness to state, if you are prepared to do so, what is the nature of the examination, supposing you were entrusted with the task, to which you would subject a candidate for a licence to sell poisons?

I think that all persons who have passed the examination which the Pharmaceutical Society adopt would be fit for it, and that all persons who have passed the examination which the Apothecaries Company subject their members to would be fit for it, and that in general persons whom we should call educated people in these several lines, might be entrusted with the sale of poisons.

681. If it be the fact, as has been stated, that there are in the whole country about 16,000 persons who now sell poisons, about what proportion of that number do you suppose would be able to pass such an examination as you propose?

I am not sufficiently acquainted with the manner in which poisons are sold in small towns to be able to answer that question.

682. Do you think that, generally speaking, the sort of person who has been in the habit of selling laudanum, and poisons of that description, in a small country town, would have any difficulty in educating himself sufficiently in the course, say of five years, to pass the sort of examination which you would require from him in order to allow him to dispense poisons?

I should think not, if he was a person of common capabilities and attainments; of common intelligence.

683. Duke of *Somerset.*] How does a person pass the examination of the Pharmaceutical Society, or of the Apothecaries Company; must he come to London in order to pass?

With regard to the Apothecaries Company, he certainly must; with regard to the Pharmaceutical Society, I am not certain, but I think not.

684. Would you have an examination which should compel every apothecary or person who sells drugs in the country to come to London to pass an examination?

I should think that might be managed otherwise.

685. You might appoint two or three places in the country where the examinations might take place?

Exactly so.

686. *Chairman.*] Assuming that no person is to be allowed to carry on the business of selling these poisons who has not passed an examination, and obtained a licence to carry on that business, to what body would you entrust the responsibility of granting or withholding that licence?

I think there are several bodies who would be adequate examiners in such a case; there is the College of Physicians, the College of Surgeons, the Apothecaries Company, the Pharmaceutical Society, and, I think, some others.

687. Would there be any jealousy on the part of any one of those bodies if they were excluded?

I think there would.

688. Would it be possible to combine all four?

I think it might.

689. Duke of *Somerset.*] Supposing that such a law were made, and that, so you say, an intelligent person living in a country village might in the course of a few years qualify himself to pass this examination; how is an intelligent young man living in a country village to set to work to acquire this information?

In the same way that other chemists and druggists and apothecaries prepare themselves to go through an examination. I think that he must go through certain preliminary studies, which would fit him for the purpose; of course he would not be subject to so rigid an examination as would be the case if it were required for practice or for other purposes.

690. We have been already told by a witness on the part of the Pharmaceutical Society that the education costs about 100 *l.*?

I suppose it might be attained at a lower sum than that.

691. Looking at the limited means for attaining chemical education in this

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country, you think that what would be required might be attained by this class of persons?

I think it might; it depends much on the character of the person. At the Veterinary College I have seen a number of veterinary practitioners come before one who are really excellent chemists, and who undergo as good an examination for that branch of practice as if they were practising upon the human subject. In other cases I meet with men who are dull and stupid, and who never would attain that sort of knowledge that would be requisite even for this purpose; so that a great deal would depend upon the individual; but I think that a sharp, clever person keeping a shop in that miscellaneous line (as we have called it), might very easily attain a sufficient degree of information to enable him safely to sell poisons.

692. We are told that in such a town as Manchester there are not more than five or six chemists in all the town who, if you took any substance out of the whole Pharmacopœia, and asked them this simple question, "Is this prepared, or is it pure?" would be able to answer the question; do you believe that to be the state of knowledge, or rather the state of ignorance, of the chemists in such a town as Manchester?

I should not have suspected that it went to that extent.

693. Assuming that to be a correct description of the state of ignorance existing in such a town as Manchester, would that induce you to qualify your opinion as to the possibility of teaching chemistry to the persons now selling these drugs throughout all the towns and villages of this country within the space of five years?

I think that, in regard to Manchester and similar places, the sale of poisons ought to be entrusted only to proper persons, however few they might be.

694. But if, even in such a town as Manchester, there are so few chemists and druggists who are at all acquainted with the substances that they sell, what do you think must be the case throughout the country generally; must there not be a much greater amount of ignorance in the rural districts?

I should imagine so, of course.

695. Then do you think that within five years we should be able to overcome that ignorance sufficiently to find some person in each town and village who might be allowed to sell poisonous articles?

I think so.

696. *Chairman.*] Would you extend the system of examination for licences to assistants in shops who dispense these poisons?

I would extend it to all persons who should be entitled to sell poisons; if the assistant is not entitled, or has not been examined, then if a poison is asked for he must go to his master, or to whatever person is fit for the purpose.

697. Duke of *Somerset.*] In speaking of persons who should be allowed to sell poisons, would you strictly define poisons by a schedule in the Act, or would you leave it, as we understand it is left in France, without any strict definition, but imposing on the person selling it the responsibility of so selling it if it is poison?

Your Lordships are well aware of the extreme difficulty of defining a poison, and therefore I should think the suggestion your Lordship has last made would be the one probably best to be adopted. We find at Apothecaries Hall that there are several poisons which are largely used by certain manufacturers of various articles, who, being known as such, receive any quantity which they choose to take; but unless they are known to the persons who are intrusted with the sale, the sale is entirely refused even of any small quantity. There are some substances, such as corrosive sublimate, essential oil of bitter almonds, oxalic acid, tincture of cantharides, and two or three other substances, which are very largely used by manufacturers, and for bug poisons, and for preserving timber, and for making hair-washes, and perfumery of different kinds, and cleaning straw bonnets and other articles. Such persons occasionally come to Apothecaries Hall, and purchase largely; but then they are well known at that place as being respectable individuals, who may safely be trusted with those articles.

698. *Chairman.*]

698. *Chairman.*] Under the system you proposed no person would be allowed to sell poisons even to a manufacturer or tradesman, unless he received the licence which you have described?

Unless he had received the licence I have described, and were of course a person possessing other common attainments, good common sense, which would enable him to draw a line between a case where poison was probably intended for bad purposes, and where it was manifestly intended for others.

699. I presume that your opinion would be, that if the sale of poisons were restricted to persons who were able to pass this sort of examination, it would be less necessary for the safety of the public to make the regulations so stringent as would be required if poisons continue to be sold by a large class of persons who have given evidence of their competency to deal in poisons?

Yes.

700. Will you have the goodness to state what restrictions, in your opinion, would be advantageously imposed upon either class; supposing, in the first place, that licences are not required, what restrictions do you think it might be advisable to impose upon the sale of poisons, as precautions against either negligence or criminal intention?

The principal suggestions which I have heard in respect to this matter have been with regard to certain forms of bottles and coloured bottles, and so forth; that poisons would always be administered, or always exhibited, or always employed in square bottles, or in coloured bottles, or in bottles with "poison" stamped upon them; but I am not of opinion that that regulation could be enforced with any advantage.

701. Earl of *Derby.*] As far as regards the drugs kept in chemists' or druggists' shops, I presume that those regulations might be enforced without any disadvantage, so as to diminish the probability of accidents from mistake on the part of the attendants in the shop; that is to say, you might require, without inconvenience, that a chemist or druggist should keep poisonous substances in his shop in jars, or bottles of a certain colour or of a certain shape; but you would not apply that to his dispensing them to the public; is that what you mean?

That is what I mean.

702. You would not see any objection to requiring that in all chemists' shops these articles should be kept in jars or in bottles of a certain shape or certain colour, but you would not wish to extend those restrictions to the bottles in which the chemists serve them to their customers?

I do not see any objection to an apothecary or chemist keeping his poisons in bottles of a particular shape or character; but with regard to the sale of them in those bottles, I think that the result would be that the bottles would probably be used at other times for other purposes, and that that would lead very often to a dangerous reliance upon bottles not so stamped, shaped, or coloured.

703. But, within the chemist's shop, would not the fact of poisons being kept in bottles of a certain colour or a certain shape, diminish the danger of mistakes upon the part of the assistant or dispenser?

I think it would diminish the liability to accident, certainly.

704. Then, so far as the chemists and druggists are concerned, you think it would not be a vexatious restriction?

I think not.

705. Do you think it would be possible, in the ordinary business of a shop, to keep poisons separate from other drugs; or are they so numerous that that must be, to a certain extent, impossible?

I think that the more virulent and rarely-called-for poisons could, without difficulty, be kept separate; but, with regard to a number of others, there are so many preparations containing them, and so many forms under which they are exhibited, that it would be almost impossible to draw a line of distinction.

706. Would it, in your judgment, be possible in an Act of Parliament to lay down a definite rule with regard to the separation of poisons from ordinary drugs?

I think decidedly not.

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707. In point of fact, although some legislative restrictions may be desirable, do you think that the main reliance that the public must have must be upon the character and intelligence of the person dispensing the poison?

Most undoubtedly; that is the main point to be urged.

708. Towards that, prospectively, you think that the system of examination and licence would tend?

I think it would.

709. Do you think it would be practicable to introduce at once that principle of examination and licence, or must a certain time be given to enable a supply of properly qualified persons to arise in the country?

I am hardly aware of what happens in small towns and remote places; but, as regards the case of Manchester, or London, or Liverpool, or any other large town, I think that fit persons might be selected to sell poisons.

710. Duke of *Somerset.*] Should we not do very little if we legislated only for large towns, and left the rest of the country without any protection?

There would be some inconvenience in certain small places, but I am afraid it must be submitted to.

711. Are there not many other poisons which, upon a little reflection, might occur to you, and which in the same way must be omitted?

There are a great number of poisons, some of them of rather a virulent character, which are sold as quack medicines and patent medicines, and their composition is frequently very different from that which is specified; some of them I believe to be very dangerous poisons, but still in very small quantities, and I scarcely see how any of the measures which have been alluded to would meet the case; as long as virulent remedies are allowed to be sold as quack or patent medicines, so long that evil will exist.

712. What would be the effect of a law which would interfere with all the dealers in quack medicines suddenly in this country?

I do not think that such a law could be practically brought about.

713. Lord *Somerhill.*] You stated that at Apothecaries Hall poisons are refused to applicants of whom there is not some knowledge?

Yes, with the exception, perhaps, of small doses of laudanum. If any person came there, and asked for 20 drops of laudanum, especially in a time of cholera, or any prevalent complaint of that kind, for which its immediate administration might be important, I do not think they could refuse it.

714. Are you aware whether applications for poisons are frequently refused?

Not very frequently at Apothecaries Hall, to which my information is limited.

715. Earl of *Derby.*] Are not the dealings at Apothecaries Hall more or less of a wholesale character, and not retail upon a small scale?

They are retail also, but not upon a very small scale.

716. Lord *Somerhill.*] With respect to those refusals which you say are sometimes given in cases where suspicions may exist in the minds of the persons who have the charge of selling these articles at Apothecaries Hall, are you aware what is generally the nature of the suspicion upon which the refusal is grounded; is it a fear of intentional abuse of the poison, or a fear of accident through negligence or ignorance?

I think generally in consequence of an apprehension that they will get misapplied in some way or other.

717. Misapplied for purposes of crime, such as suicide, or possibly murder, or through negligence or ignorance?

I think both cases might occur. There are a number of persons who are in the habit of keeping laudanum by them; they take 10 or 20 drops of laudanum when their bowels get out of order, or when they are apprehensive of cholera, or disorders of that kind; and in such cases of course great mischief may follow if it is carelessly administered; as, for instance, an overdose given to a child, which is a very common case; or if any person, bent upon suicide, knows of the existence of such poison in the house: of course there would always be a liability to accidents of that kind; but that, I believe, must always be more or less the case.

718. At Apothecaries Hall when a poison or preparation is refused, is the reason for the refusal stated?

Not always. I inquired at Apothecaries Hall this morning when any case of the kind had occurred; and they told me that about a fortnight ago was the last time that they had occasion to refuse the sale of a poison; that was in the case of laudanum. I asked why they refused it; they said the woman who came in and asked for it seemed in a very irritable state, and she was not able to give any distinct answers to the questions that were put to her; she was either a little wandering in her mind, or a little tipsy, and in that case she was refused.

719. Marquess of *Salisbury.*] Have you any means of knowing what precautions are taken when poisons are sold wholesale at Apothecaries Hall?

Only that they are sold in all cases to individuals whom they know, and of course properly marked and labelled as "poison;" and in the case of arsenic, the requirements of the Act of Parliament are followed.

720. Lord *Somerhill.*] I gather that you are of opinion that there is no impediment to empowering a shopkeeper, a chemist, or other person to refuse arbitrarily to sell poison to a person that he does not know, without giving any reason?

None at all. My opinion with reference to arsenic went to such an extent, that some years ago, when I had the honour of being consulted by the Secretary of State for the Home Department, I ventured to recommend the entire prohibition of the sale of arsenic: my opinion is, that in medicine, which is the main plea for selling it, there are other remedies which are certainly as advantageous as arsenic, and much less dangerous, and that in regard to manufacturers of colours and so on, if they were forbidden the use of arsenic, they would very soon find out other substances which would answer their purpose; with regard also to washes for cattle, and the use of it for impregnating grain to prevent disease and so forth, I think that other substances might be employed as a substitute for arsenic for those purposes.

721. Earl of *Derby.*] Which would not be equally poisonous?

Which would not be equally poisonous, or which, if equally poisonous, are not of the very dangerous character that arsenic is, from its tastelessness, and the small dose in which it is poisonous.

722. Lord *Somerhill.*] Your proposed prohibition would extend not only to retail selling of arsenic, but to wholesale?

Certainly.

723. Lord *Talbot de Malahide.*] Is not arsenic a poison most easily detected?

It is very easily detected.

724. Particularly yellow arsenic?

Any form of arsenic is very easily detected.

725. Is not arsenic required for stuffing birds and other animals?

It is used for that purpose; but I think there are other substances which would be equally effectual.

726. *Chairman.*] If the sale of poisons were licensed in the manner you propose, what additional restriction would you think it desirable to enact in order to secure the public from either wilful or unintentional poisoning?

I am afraid that if a person is bent upon suicide, or bent upon acquiring poison for murder, any legal restrictions that could be invented would be one way or other evaded; but with respect to the sale of poisons under the restrictions that have been suggested, I think that, in addition to those, every article of the kind ought to be distinctly labelled as "poison."

727. Do you think there would be any advantage in enacting, with respect to poisons which are not required for manufacturing purposes (where colour would not be admissible), that they should be required to be coloured, so as to prevent an unintentional poisoning?

I do not think that would be an effective preventive.

728. Do you think that that regulation is of no use now under the Arsenic Act?

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My own opinion is, that it is not; but I am aware that very high authority goes the other way; I think it would be a very good plan to levy a heavy fine upon all persons who have given out poison by accident or mistake.

729. Earl of *Derby.*] Would you go so far in a case of aggravated carelessness as to withdraw altogether the licence from the person practising?
I think so, if it occurred more than once, especially after a heavy fine.

730. Would not the deprivation of a licence to sell poisons have the practical effect of preventing him from acting as a druggist at all?
I should think so.

731. Then the withdrawal of the licence would be the withdrawal of the whole means of livelihood that the person had?
I think it probably would.

732. Of course you would think that that penalty must be reserved for very extreme cases?
Yes.

733. You would not apply it even in the case of a second offence for such a thing as misputting a label upon a bottle, or any trifling infringement of the Act?
I think not; but I think in aggravated cases it would be a very just punishment.

734. *Chairman.*] Does anything else occur to you which you think it may be useful to state for the information of the Committee?
I think not. There are some preparations in the Pharmacopœia which give rise to a good deal of difficulty; one is * * * which is a virulent poison to children, and it is a medicine very frequently administered, and it is not unfrequently fatal.

735. Lord *Talbot de Malahide.*] Is ergot of rye a necessary article of medicine?
I think it is.

736. And savin?
And savin.

The Witness is directed to withdraw.

S. J. Burch, Esq. M.R.C.S.E.

SAMUEL JESSUP BURCH, Esquire, M.R.C.S.E., is called in, and examined as follows:

737. *Chairman.*] WILL you have the goodness to state what position you hold in the London Hospital?
I have held the appointment of Resident Medical Officer at the London Hospital for nearly 12 years: prior to that, I was House Surgeon to the Lincoln County Hospital; and before that, I was House Surgeon to the County Hospital at Carlisle, in Cumberland.

738. Have you turned your attention to the subject of poisons?
I have, since I have been in the London Hospital, with reference to a number of cases of poisoning that we have had. I have here an abstract, which I will lay before your Lordships, of the cases which we have had during the last 11 years: it refers to the points to which you are now directing your attention: it is a copy of an abstract which has lately been forwarded to the Secretary of State.

The same is delivered in, and is as follows:

NATURE OF POISONS.	1846.		1847.		1848.		1849.		1850.		1851.		1852.		1853.		1854.		1855.		1856.		GRAND TOTAL for Eleven Years, 1846 to 1856, inclusive.	
	Cured.	Died.	Cured.	Died.	Cured.	Died.	Cured.	Died.	Cured.	Died.	Cured.	Died.	Cured.	Died.	Cured.	Died.	Cured.	Died.	Cured.	Died.	Cured.	Died.	Cured.	Died.
Laudanum	6	—	5	1	9	1	10	—	4	1	4	—	7	—	2	—	3	—	5	—	6	1	61	4
Oxalic Acid	3	—	4	—	6	1	2	1	1	—	3	1	11	1	5	—	3	—	—	—	—	—	38	4
Sugar of Lead	3	—	3	—	4	—	2	—	1	—	2	—	5	—	1	—	5	—	2	—	5	—	33	—
Sulphate of Copper	2	—	1	—	1	—	—	—	1	—	—	—	—	—	—	—	—	—	—	—	—	—	5	—
Oil of Vitriol	1	—	2	—	1	—	1	—	1	—	—	—	1	1	1	—	1	—	—	—	—	—	9	1
Deadly Nightshade	3	2	1	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	4	2
Tincture of Iodine	1	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1	—
Arsenic	—	1	—	—	2	—	—	—	3	—	—	—	—	—	1	—	—	—	1	—	—	—	7	1
Tartar Emetic	1	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1	—
Salts of Mercury	1	—	—	1	2	—	3	—	3	—	1	—	2	—	4	—	2	—	1	—	1	—	20	1
Carbonate of Lead	—	—	1	—	—	—	1	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	2	—
Corrosive Sublimate	—	—	1	—	—	—	—	—	—	—	—	—	1	—	1	—	—	—	—	—	1	—	4	—
Nux Vomica	—	—	1	—	—	—	—	—	—	—	1	—	1	—	1	—	1	—	—	—	—	—	5	—
Sulphate of Zinc	—	—	2	—	—	—	—	—	—	—	—	—	—	—	1	—	1	—	1	—	—	—	3	—
Hellebore	—	—	—	—	1	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1	—
Caustic Potash	—	—	—	—	1	—	1	—	—	—	—	—	1	1	—	—	—	—	—	—	—	—	3	1
Hartshorn	—	—	—	—	—	—	1	—	—	—	—	—	1	—	—	—	1	—	—	—	2	—	5	—
Aqua Fortis	—	—	—	—	—	—	—	1	—	—	—	—	—	—	—	—	2	—	—	—	—	—	3	1
Turpentine	—	—	—	—	—	—	1	—	—	—	—	—	—	—	—	—	—	—	1	—	—	—	1	—
Nitrate of Silver	—	—	—	—	—	—	—	—	—	—	1	—	—	—	—	—	—	—	—	—	—	—	1	—
Red Oxide of Lead	—	—	—	—	—	—	—	—	—	—	2	—	—	—	—	—	—	—	—	—	—	—	2	—
Essential Oil of Bitter Almonds	—	—	—	—	—	—	—	—	—	—	1	—	—	—	1	—	—	—	—	—	—	—	2	—
Naphtha	—	—	—	—	—	—	—	—	—	—	—	—	—	—	1	—	—	—	—	—	1	—	2	—
																							213	15

Samuel J. Burch,
Resident Medical Officer, London Hospital.

S. J. Burch, Esq., M. R. C. S. E.

23d June 1857.

S. J. Burch, Esq. M. R. C. S. E.

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739. It appears that during the 11 years, from 1846 to 1856, inclusive, you had 228 cases of poisoning, of which only 15 have died?

Yes.

740. Do you consider that to be an extraordinary instance of successful treatment, or what is the sort of proportion that you think the deaths generally bear to the cases of poisoning?

I think it depends very much upon their being taken in hand within a very short period of the administration of the poison; if that is done, there is a much greater probability of success; that is the cause, I believe, of the slight mortality we have had at the London Hospital, that immediately they are brought in, I have generally been on the spot to attend to them, and I have seen invariably most of those cases.

741. Have criminal proceedings been taken in consequence of any of those cases?

In 1850 or 1851, a few months prior to the passing of the Arsenic Act, in consequence of the great number of cases that we had had, both as in-patients and out-patients (the abstracts which I have delivered in refers only to in-patients), when Sir Edward Buxton was chairman of the House Committee, I wished to bring the matter before the public. At that time, the question was brought before Mr. Hammill, the magistrate, as a number of cases were occurring in Essex and other counties, with reference to women poisoning their husbands, and also their children, by means of arsenic, for the purpose of getting the fees of the burial associations.

742. I see that a great number of these cases arose from laudanum?

The greatest number from laudanum. The next largest number is from oxalic acid.

743. Lord *Talbot de Malahide.*] Were they mostly accidental or malicious?

Mostly suicidal.

744. Duke of *Somerset.*] Do you think that the Arsenic Act has been successful?

I believe it has been very successful in general; of course there are isolated cases in which arsenic has been unfortunately fatal, especially in one case to which I will refer presently.

745. Earl of *Derby.*] To what do you attribute the very small proportion of cases of arsenic during the period, there being but eight cases of arsenic out of the whole 288; whereas there are of laudanum 65, of oxalic acid 38, and of sugar of lead 33?

The reason I believe is this, that a druggist does not find it profitable to keep arsenic by him, because in the eastern districts of the metropolis he is not called upon to sell arsenic so frequently as he is in the country districts, where it is wanted for agricultural purposes.

746. I understood you to say, that before you came to the London Hospital you had some experience in country practice?

Yes, at the Lincoln County Hospital.

747. Can you give the Committee information as to the mode of dealing with poisons in country districts, in the way of restrictions and precautions, as compared with the mode in London and other large towns?

With regard to the Lincoln County Hospital, I refer especially to laudanum, in the first instance; in some parts of the county of Lincoln, which were not well drained, there was a very large demand for laudanum. A chemist, whose name I believe to be Roots, used to derive a very profitable remuneration from the sale of laudanum, which arose from the use of it in districts where the terrible malaria of aguism is engendered. But with regard to arsenic, I should say they are very cautious; it is only used by large farmers: but as to what is done in Essex, I am ignorant, except from the reports of the assizes.

748. Would you consider that different regulations ought to be applied to the great towns and to the country districts?

I think there should be, for reasons which I can state.

749. What

749. What restrictions would you desire to impose upon the sale of poisons in large towns?

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In large towns, persons, as a general rule, are much more dissipated than they are in small villages and hamlets. I speak from my own observation and experience, particularly in that part of London where I have been living the last eleven years, the neighbourhood of St. George's in the East and the Thames; in fact, a district of London which we might call almost the Liverpool of the metropolis, containing a large maritime population. I assure you that Mr. Yardley and Mr. Hammill will bear me out in my statement, as they kindly permitted me to use their names in corroboration of points I propose eventually to bring before the public. The dissipation is now attaining such a height in that part of the metropolis, that it is fearful to contemplate.

750. In what way does the question of dissipation affect the sale of poisons?

In this way, that people breaking out into habits of dissipation, often seek recourse to suicide, or to poison, to relieve that terrible state of mind which intoxication or dissipation in any form inevitably produces. I can confidently appeal to Mr. Yardley, the Thames magistrate, and Mr. Hammill, of Worship-street, as to the character of crime in that district.

751. Will you state the precautions which you would recommend for the purpose of discouraging suicide by poisoning?

I would diminish the facility of obtaining poisons.

752. What would be the restrictions which you would desire to impose upon the sale of poisons?

I will just premise with reference to the qualifications of the persons who are now in the habit of selling poisons, that I can refer to two special instances which were brought to my knowledge when I was making inquiries some days since, of two men who were connected with one of the large metropolitan hospitals, a sort of labourers in the laboratory of the hospital, and who went into practice as chemists and druggists, and one of them now is in practice as a surgeon, and has over the door his name, "Surgeon;" and I believe, that if you could minutely investigate the matter, you would find that not by tens or hundreds, but I will almost venture to say by thousands, throughout all the districts of London, and the provinces of the empire generally, the persons who are now selling poisons are most inferior in education, and most unqualified to dispense medicine, and certainly to sell poisons.

753. Duke of *Somerset.*] This arsenic appears not to be coloured as the Act requires?

No, not at all.

754. Do you believe it to be common that arsenic, although prohibited to be sold, except with colouring matter mixed with it, is frequently sold in that state?

I could not say that, from my own experience, but I would almost infer that it must be so.

755. Earl of *Derby.*] What restrictions would you propose to impose for the purpose of checking the promiscuous sale of poisons?

I think there ought to be a general restriction as to the more important class of poisons, like salts of morphia, aconite, strychnia (arsenic has already been provided for), and atropine, the active principle of deadly nightshade.

756. What is the nature of the restrictions which you would recommend; would you seek for those restrictions in the qualifications of the dealers, or in imposing certain regulations upon all persons who deal in poisons?

I should view it in both lights; I should provide undoubtedly for a preliminary education for a man who is about to enter upon the business of a chemist and druggist to dispense medicines and to sell poisons; and then I would provide also with regard to the more important poisons, like strychnia, aconitum, salts of morphia, &c., that he should not sell those without a witness.

757. You would make it penal to sell any drug or poison without the person having a licence consequent upon an examination?

Yes; I think that a careful examination as to his knowledge of the action of

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drugs, and his mode of dispensing those drugs, would indirectly check to a great extent the way in which medicines at the present time are sold in London, adulterated to a most fearful extent; it would apply many ways.

758. Would you apply that principle to country districts, as well as to London?

To a certain extent I should; but you could not be so stringent in the country as in London. In villages in the country drugs are often sold by females; but they should only be allowed to sell certain things, and to a certain extent.

759. Do you think that in an Act of Parliament you could have provisions which should be more strict in a town than in a country village?

I think so; because in a country village a person is generally known, or is supposed to be known, to everybody; but in places like Liverpool and Manchester, and in certain districts of London, you cannot prevent the evil unless you check the indiscriminate sale of poisons.

760. Then I understand that you would provide a schedule of certain poisons, the sale of which you would entirely prohibit by unqualified persons?

Yes.

761. Have you considered what poisons that schedule should include?

I have not considered that; I only received your Lordships' summons on Saturday evening, and on Monday I was laid up with diarrhœa and vomiting, in consequence of handling this paper of arsenic without sufficient care, in consequence of the very careless way in which it had been wrapped up; and I may observe there is no name upon it of the party selling it, but merely "arsenic, poison."

762. Lord *Talbot de Malahide.*] How did the arsenic come into your possession?

It was brought to me by the medical man who found it in the room when the man was dying.

763. Duke of *Somerset.*] It was given to the man as a remedy?

As a remedy for delirium tremens, as I was told. The facts will all come out to-morrow before the coroner.

764. Lord *Somerhill.*] The chemist gave it to the patient, trusting to his intelligence to take a proper dose?

He could not possibly have taken a proper dose; one-fourth of a grain of it would produce violent colic; and in some cases two grains of it will produce death, especially if the man's constitution is broken down by previous intemperance, especially when taken upon an empty stomach.

765. Lord *Talbot de Malahide.*] Is arsenic often taken in cases of delirium tremens?

I never heard of it.

766. Lord *Somerhill.*] I understand that you would have a different provision with respect to persons selling chemical drugs in villages or towns with a small population, from what you would have with respect to persons who sell chemical drugs in large towns?

In large towns, containing a certain population, a man who sells drugs and dispenses medicines ought to have such a previous training and to undergo such a preliminary examination as will ensure his knowledge of the subject. If a man has had a good previous training in a business like that of a druggist, you might fairly infer that he would certainly have discretion sufficient to say to a person that came saying, "I want a penn'orth of arsenic," or "a penn'orth of laudanum," "I will not give it," if he saw that the man was not sufficiently respectable to be trusted with it.

767. You mention that you have known instances of persons wholly unqualified assuming to themselves the name of "surgeons"; is not that contrary to the law?

There is a law that was passed in the year 1815, the Apothecaries Law; that law, although not positively obsolete, is, owing to the expensive mode of proceeding which it requires, perfectly in abeyance, and of no use whatever.

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The College of Surgeons has no law whatever prohibiting unqualified practitioners, nor has the College of Physicians; the only body corporate in England which has such a law is the Apothecaries Company; but they cannot afford to prosecute men who violate it.

768. Lord *Talbot de Malahide.*] But the Apothecaries Company have no power of prosecuting a druggist?

Not a druggist.

769. Have not the censors of the College of Physicians, with the wardens of the Apothecaries Company, a joint power of examining druggists' shops?

I think not; I never remember an instance of it carried out in practice.

770. Lord *Somerhill.*] Have you reason to believe that the persons to whom you have alluded actually venture to perform operations?

I believe they do, for this simple reason, that one frequently sees over the doors of such persons, "Bleeding and Cupping done," and "Tooth-drawing," and such like minor operations.—Before retiring, will your Lordships allow me to suggest that, should anything be done to provide for persons carrying on a druggist's business possessing due qualifications, I think it is very important that there should be some proper body which should have the power of entering any druggist's shop to examine the quality of the drugs, because some shops which sell laudanum will sell it 25 per cent. below the mark; others will be at the correct point, and that is very important in certain cases.

771. Marquess of *Salisbury.*] Could you apply that examination to quack medicines?

It would be a difficult thing to do so, on account of the laws of organic chemistry not sufficiently embracing those points which refer especially to some vegetable poisons.

The Witness withdrew.

Ordered, That this Committee be adjourned to Tuesday next, Two o'clock.

Die Martis, 30° Junii 1857.

LORDS PRESENT:

Lord President.	Earl of Derby.
Duke of Somerset.	Lord Somerhill.
Marquess of Salisbury.	Lord Rossie.

THE LORD PRESIDENT in the Chair.

Evidence on the Sale of Poisons, &c. Bill.

A. S. Taylor, Esq., M.D., F.R.S.

30th June 1857.

ALFRED SWAINE TAYLOR, Esquire, M.D., F.R.S., is called in, and examined as follows:

772. *Chairman.*] WILL you state what situations you hold?
I am Professor of Chemistry and Medical Jurisprudence in Guy's Hospital.

773. For how long have you turned your attention particularly to the question of poisons?
Especially since the year 1831; 26 years.

774. What opportunity have you had of studying these questions?
I have devoted myself almost exclusively to that branch of medical science, and have seen most of the cases that have been brought as the result of accident to Guy's Hospital, and I have also had a large number of cases referred to me from all parts of the country by medical practitioners.

775. Have you ever been engaged to assist in criminal proceedings?
Frequently.

776. Have you, in point of fact, been engaged in all the principal poisoning cases?
Yes, for the last 10 or 12 years.

777. Will you state whether you consider that any change is required as to the present system of obtaining poison?
I think that a change would be desirable; I think that the facilities for obtaining poison are at present too great.

778. Can you give any instances to show in what way those facilities have been injurious?
I think that is shown in a great measure by the increase of deaths from poison. In publishing a book on poisons in 1847–48, I collected a number of tables of statistics regarding poisoning, and there had been a Return made to the House of Commons, under the Motion of the late Sir Robert Inglis, of the deaths from poison in England and Wales in the years 1837 and 1838, from all the coroners in this country. That gave us at once, and I believe for the first time in England, a knowledge of the number of deaths that took place from poison; that is to say, the deaths that were ascertained to be from poison.

779. Duke of *Somerset.*] All those cases were the verdicts of juries?
Yes, all those were coroners' cases; in compiling that table for publication, I found that there were 527 fatal cases of poisoning in 1837 and 1838, in which the poisons were known; but there were 14 cases in which the poisons were unknown, making altogether 541 deaths from poisoning. That would be about 270 cases per annum on the average. In 1840, I went through the whole of the tables of the Registrar-general as to the number of cases of

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poisoning, and I found that in that year (that is, only two years removed from the coroners' return), the deaths amounted to 349. Since the registration of deaths we have come to a better knowledge of them, for many were buried before without any proper certificate. Then there are some statistics which have been lately published, which I believe are accurate, by Mr. Wilson of Birmingham. I have gone over the tables, and it appears that the average, from the last registration returns for six years, amounted to 536 deaths per annum from poison. The years are these, from 1848 to 1853. The total deaths from poison in the Registrar-general's Report, in six years, are given at 3,218, making an average of about 536, or something like that; so that they have gone on from about 270 to 349, and to 530, progressively increasing.

780. In the first case, which you took from the coroners' returns, you had no register, and you say that the register has led to greater accuracy?
Yes: I think that very likely many escaped observation in the early period.

781. Therefore the increase can hardly be taken as a fair criterion?
No: I think that a fair allowance might be made for that circumstance.

782. Lord *Rossie.*] You would compare it with the year 1840?
Yes; that would be fairer, I think, although every year there are more accurate returns with regard to deaths. Those are all the returns we have, I think, respecting the general statistics of poisoning in this country.

783. Is there any means of knowing what proportion of the cases are supposed to be accidental, and what proportion are supposed to have resulted from the felonious administration of poison?
There is no accurate return of that. In the case of the Registrar-general's Report for 1840, there were 181 males, and 168 females; the cases of suicide from poison were 161.

784. Duke of *Somerset.*] Is that in one year?
Yes, that is the year 1840; the cases of accident or homicide were 188.

785. Marquess of *Salisbury.*] Are there any cases of intentional poisoning besides the cases of suicide?
No; the accidental cases are not separated from the homicidal cases.

786. Lord *Rossie.*] Is there any means of ascertaining whether any particular kind of poison was used in the majority of those cases?
Yes: we have, especially in the coroners' returns, very important information upon that point.

787. Have you the means of getting it from the coroners' returns in late years?
No; there has been no return since that which was made upon the order of Sir Robert Inglis, which is now 20 years ago. I can form a kind of judgment by a comparison of the number of cases that come before me; but it appeared that, in the two years 1837 and 1838, the poisons chiefly used were—opium, 196 cases, and—arsenic, 185 cases.

788. Is that since the Arsenic Act?
No, before the Arsenic Act.

789. Have you any return since the Arsenic Act?
No, there has been no return since the Arsenic Act. I have the statistics of Guy's Hospital for the last few years. From the return of 1837-8, it appears that the mortality occasioned by taking opium was 37 per cent., and by arsenic 35 per cent, making 72 per cent. for these two poisons; so that very nearly three-fourths of all the deaths were caused by opium and arsenic; by sulphuric acid, or oil of vitriol, 6 per cent.; prussic acid, 5 per cent.; oxalic acid, 3 ½ per cent.; corrosive sublimate, and mercurial preparations, 3 per cent.; and the rest were made up of other poisons, such as tartar emetic, nux vomica and others, varying from 1 to 1 ½ per cent.; but I have given the principal, making 89 ½ per cent. altogether—opium, arsenic, sulphuric acid, prussic acid, oxalic acid, corrosive sublimate, and mercurial preparations.

790. Duke of *Somerset.*] The three greatest per-centages are opium, arsenic and prussic acid?

The

The two most important are opium and arsenic; prussic acid forms about five per cent. of the deaths. *A. S. Taylor, Esq., M.D., F.R.S.*

791. Marquess of *Salisbury.*] Is there any mortality resulting from other poisons besides those; strychnine, for instance? 30th June 1857.

Strychnine has only been generally known as a poison within the last two or three years, and chloroform also; so that the return throws no light upon those. I have taken a note of the proportion of cases of poisoning by opium; I have already given that for 1837 and 1838. I will now give the Registrar-general's returns in 1840. He only gives, out of 349 cases of death, 75 as caused by opium and 32 by arsenic; so that in the large proportion of deaths from poisoning in 1840, we have no information of what the poison was. Very often the verdict is, "Died from poisoning," without any analysis. The mortality from opium in that case was 21 per cent. Then, in the Birmingham Hospital, out of 63 cases, there were 12 cases of poisoning by opium. They did not, the whole of them, prove fatal, but the cases of poisoning by opium formed 20 per cent. of the cases admitted into the Birmingham Hospital, in a period of eight years. In Guy's Hospital, during the last three years, we have had 27 cases of poisoning; not such cases as are referred to me for criminal investigation, but cases of patients coming into the hospital; five of these cases were from laudanum, amounting to about 20 per cent., or one-fifth of the cases, but not one of those was fatal; they were actively treated, and they recovered. Arsenic (and this is one point to which I beg to call particular attention) certainly appears to have become less frequent as a poison, for in the last three years there were only two cases brought to Guy's Hospital. Now, generally speaking, there were two or three cases a year in former times before the Arsenic Act came into force; so that poisoning by arsenic seems to have become less frequent since the Arsenic Act was passed.

792. Lord *Rossie.*] It is only in cases where there is a chance of recovery that the persons are brought into the hospital?

Yes; but they are brought in sometimes 8 or 10 hours after the poison has been taken; if the persons are in a dying state, they are not brought to the hospital. Then, in the last three years, the number of cases of poisoning by oil of vitriol was three; nitric acid, one; oxalic acid, four; laudanum, five; prussic acid, one; oil of bitter almonds, one; solution of ammonia, one; and brandy is also put down as a cause in one case; that was a large quantity that a man swallowed, and from which he died in a short time; Burnett's fluid, one; poisonous berries, two; locust beans, one; mercurial preparations, two. Those are all that are recorded, so that we have really no very accurate returns to show that there is an increase of poisoning; it is more a suspicion than a proof in any way.

793. *Chairman.*] Do your observations tend more towards the evil of the facility of procuring poison for criminal purposes, or have they regard to the ease with which mistakes are now made in swallowing poisons?

I should make this observation, that I think there is too great facility for procuring poison for criminal purposes, even now, although the Arsenic Act has done some good in that respect; I think it has reduced the number of deaths.

794. Lord *Rossie.*] Do you say that the actual number of deaths has been reduced, or only the number of deaths by arsenic?

The deaths by arsenic chiefly have been reduced. I was lately at a small town in Buckinghamshire where I had an opportunity of examining the arsenic-book; and I thought that it might be of use to your Lordships to know, not only how many sales of poison there are in a country town, but also other facts connected with these sales. A man was charged with having poisoned his wife, and this led necessarily to the production of the arsenic-book, and while the book was before me, I made these observations. The population of the place is about 6,000. The arsenic-book was ruled in columns, representing first, the day of the sale; secondly, the Christian and surname of the purchaser; thirdly, the place of abode, parish and street; fourthly, the condition or occupation; fifthly, the quantity of arsenic sold; and sixthly, the purpose for which it was required. In the case of some purchases the signature of the purchaser only had been given; there was no witness, although this is contrary to the Act.

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The purchases were made in the two years 1855 and 1856; and there were 36 purchases of arsenic at this druggist's in the small town to which I refer. In the purchases 33 ounces were sold: the general quantity sold was from half an ounce to an ounce. The smallest quantity sold was a quarter of an ounce, and the largest a quarter of a pound. The object was chiefly to poison rats and mice: that was the purpose stated in the book. There was one instance of a sale of two pounds, for the purpose of killing the fly in sheep. What I particularly observed in the book was that, generally speaking, the persons who bought the arsenic had not the ability of writing; they made a cross, and no witness, in many cases, was required by the seller. Then, with regard to colouring the arsenic, that was a curious point in the legal case to which I have referred; for I found the arsenic in the dead person's stomach without colour, and the books showed that the woman had bought it coloured; it was entered "coloured with indigo." Then there was a little difficulty about whether it could have been the same arsenic, or some other that her husband might have procured and given to her with the intention of destroying her; it was clear that her signature was attached to the purchase. The legal question was, whether from the time she lived, and under the influence of vomiting, the amount of colour would not be so small that it would escape observation; and I made answer that I thought it might be so, with that small quantity; consequently, that settled the point so far. But your Lordships see from this statement the operation of the Arsenic Act in a small town.

795. *Chairman.*] What do you consider to be the result?

That arsenic was obtained rather easily, and especially without witnesses; but there is still an amount of restriction upon the sale of arsenic that renders it a little difficult, so that we may consider that some good has been done by that Act.

796. Duke of *Somerset.*] Do you know many cases in which the penalty has been enforced?

I have never known one.

797. Do you believe that the Act is generally observed, or is it not very much neglected?

There is no doubt that it is much violated; there have been several criminal cases where the arsenic has been clearly purchased white, uncoloured; and I think that one great reason for that is, that the Act does not order that it shall be kept coloured, but merely suggests that colouring shall be put to it at the time of delivery when sold; this creates an amount of trouble which persons will not often take; the vendor and purchaser therefore conceal the matter, and it is not known.

798. Whose interest is it to bring an action against a person doing it?

I do not think that there is any appointment made with regard to that.

799. If the Act is to be enforced for a purpose of that kind, do you not think that it is very important to see that the Act is afterwards carried into effect?

I feel sure that that is necessary, not only with regard to arsenic, but with regard to other poisons also.

800. The mere putting a penalty into the Act, unless there is some inducement to persons to enforce the Act, is apt to be a very nugatory measure?

I think so. It is astonishing what facility there is occasionally for procuring poison. I had to examine one case which occurred in the county of Essex, where a woman had about 37 noxious substances in her possession, some of them rather active poisons.

801. Who was that woman?

A Mrs. Chesham.

802. Did she keep a shop of any kind?

No, nothing of the sort; she seems to have acted as a regular poisoner; the coroners of Essex told me that they were almost afraid to look back to the extent to which, it was suspected, she had been guilty. I gave evidence myself in four cases where she was tried for murder, and she escaped in three. She was able to obtain arsenic uncoloured, and to use it in any way that she pleased; and there

was no possibility, from the total absence of registration, of tracing when or where, or how she got it. And in the present day, as your Grace has suggested, I think the Arsenic Act presents a great difficulty, by reason of the omission to appoint a prosecutor. I know of no person who can undertake a prosecution if the Act is evaded.

803. Lord *Rossie.*] What object had this woman in poisoning those persons whom she did poison?

I think her object was partly plunder; the possession of property; but with regard to her own husband and sons, it was difficult to know whether it was poverty that induced her to get rid of them or not.

804. She made use of different kinds of poisons?

In the cases which I had to examine they were all arsenic; but she had in her possession, when the house was searched by the police, a great number of other substances, compounds of mercury and corrosive sublimate and other bodies, which she may have used without my knowledge.

805. Duke of *Somerset.*] Do you think that in this country, with the great facilities which there must be of obtaining poisons under any system, where they are obtained with malicious intent, any Act would prevent such a woman as that if she were a clever woman, as you say she was, getting poisons for such purposes?

Probably not. I do not think that any Act would altogether prevent the crime of poisoning.

806. *Chairman.*] You think that an Act might be framed which would make the detection of the crime of poisoning more easy?

Yes; in the very cases in which that woman's sons were poisoned the greatest difficulty was experienced in endeavouring to trace out where she procured the poisons, and many of the shops in the towns of Essex were searched, but in no case could they find out the least trace. That, I think, is a most objectionable state of things: I think we should make it more difficult for any one to get poison.

807. Duke of *Somerset.*] You have given an instance of poisoning by arsenic in which you yourself were concerned, and in which you said that it was very difficult to detect the colour: if you put provisions in the Act with regard to poison, a person who is ingenious enough to obtain it in spite of those provisions has double the advantage in using the poison, because, first, people will look to see whether they can detect him by means of those provisions, and when they find the provisions of the Act fail in that, the next thing is to suppose that he has not obtained the poison?

I do not think that the colouring would so much influence the question of homicidal poisoning as of accidental poisoning; I have known many cases of white arsenic being put into a teapot or a plum-cake instead of carbonate of soda: I do not think that with regard to murder the colouring would do much. At this very moment, the trial which is going on at Edinburgh involves the question of the colouring of the arsenic. If an accused person can be proved to have purchased a large quantity of coloured arsenic, and a very much larger quantity, say 150 grains, of white arsenic should be found in the stomach, that would go a long way to show that it was a different kind of arsenic. In the case of the woman referred to not more than two or three grains were found in the stomach; in this case the colour would hardly be perceptible, but in 80 or 100 grains it might be perceptible.

808. Marquess of *Salisbury.*] Can the colour be taken out of the arsenic by any easy process?

Not by any easy process; a skilled chemist can do it, but I do not think that it is possible for those who purchase poisons at shops to do it.

809. Duke of *Somerset.*] The Committee have been informed that washing in a saucer would do it?

I think that that is quite a mistake. From experiments which I have made I do not think that the colour, indigo, would be easily removed by such persons as would go to shops to buy poisons.

810. It has been suggested that it would be desirable to mix some other substance with arsenic more approaching to the specific gravity of the arsenic itself,

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itself, which would make it more difficult to obliterate the colour. What is your opinion upon that subject?

I do not think that the specific gravity would very much affect the matter.

811. You do not think that important?

No; I think that the indigo colour is better than the soot.

812. Marquess of *Salisbury.*] Arsenic is a good deal used in certain manufactures, is it not?

Yes, it is.

813. Would it be applicable to those manufactures in a coloured state?

To some of them it would not.

814. Then you must of necessity allow the sale of white arsenic?

Yes, for the purpose of certain manufactures.

815. What sort of manufactures are they?

It is used in the manufacture of glass, especially opal glass; opal shades are made with arsenic; it is used in the manufacture of shot; it is used also in the steeping of grain, and in killing the fly in sheep. It is likewise largely used in another very curious branch of manufacture; I believe the largest quantity of arsenic used in this country is used in the manufacture of papers for covering walls. I have here a specimen of the paper to which I refer (*producing the same*).

816. *Chairman.*] Do you consider that harmless?

No, it is very injurious.

817. Lord *Rossie.*] Is it injurious to the people who are employed in the manufacture?

Yes; it gives them inflammation of the nose and eyes; many of the workmen I am informed will not even hang the paper.

818. Are there young persons employed in the manufacture?

Yes. There was an instance published in a medical work in reference to some cases of illness which occurred to persons who were living in a room which was papered with this paper, and it was described to me that the persons had suffered as from the effects of arsenic.

819. *Chairman.*] Do you consider that this paper can have any deleterious effect upon the persons residing in a room papered with it?

I have no doubt of it, from cases which have been communicated to me; one from Somersetshire, and another from Birmingham. The colour is put on very loosely indeed; it contains nearly 50 per cent. of the poison, and I believe that there are many cases of illness occurring to persons living in rooms papered with this kind of paper.

820. Lord *Rossie.*] Is it more used in the case of cheap papers or dear papers?

In both; it is a permanent green, and that is the reason why it is selected.

821. Is it more used in the light or the dark?

It is found in both, but the arsenic is chiefly in the light green.

822. *Chairman.*] In what way does it affect the health?

In the cases which were actually referred to me it produced constriction of the throat, nausea, loss of appetite, tingling and numbness in the extremities, and severe headache.

823. What contact was there between the individual and the poison?

No other than might arise from the ordinary dust collecting in the room. I was informed that the gentleman and his wife sat in this room for a length of time during the day, and burnt gas in it at night, and they could not account for their illness. Dr. Hinds of Manchester, who sent the paper through a friend, advised the gentleman to go to the sea-side; he went, and recovered his health, and when he came home again he was again taken ill, and that led, from the symptoms being like those resulting from arsenic, to Dr. Hinds tearing off a portion of the paper and sending it for examination.

824. Are

824. Are you aware that in any country papers of this description are not permitted by law? *A. S. Taylor, Esq., M. D., F. R. S.*

Yes, it is the case in Prussia that green copper colours, containing arsenic, are subject to control, and are not allowed to be sold as water or oil colours for painting in-door work, or printing paper-hangings. If found on the premises of dealers in the latter articles, they are confiscated, and the owner punished with fine or imprisonment. 30th June 1857.

825. What is this which you have handed in?

This is a portion of copper which has been employed for testing one of these papers, and it is coated with metallic arsenic obtained from the paper. That shows the difference between the copper without the arsenic, and the copper with the arsenic. This paper is referred to in a note, which, with the permission of your Lordships, I will read. It was after the publication of the Birmingham case in a Medical Journal that I received this letter from a gentleman, who was a stranger to me, but who is evidently a professional man:—"Petersfield, May 29th, 1857. My dear Sir; I venture to take the liberty of forwarding some green flock paper," (that is this very paper) "and shall be particularly obliged if you would inform me if there is any arsenite of copper in the green flock of it. A friend, and patient of mine, who spends a considerable part of the day in a room lately hung with it, has been suffering for some time past from irritation of the throat and chest, and I should at once order the paper to be removed should there be anything injurious about it." I examined the paper, and found arsenic in it.

826. What is that envelope which you have handed in?

I have analysed it; it was sent to my house, and being engaged in the examination of the paper at the time, I cut off a slip of it, and found in the green tint inside the envelope the arsenite of copper.

827. Duke of *Somerset*.] Do the remarks which you have made with regard to the danger of this paper apply to any other colour except green?

There is an orange yellow which contains arsenic, but it is not very often seen; green is the most common: there is the colour orpiment, a golden yellow colour that is sometimes used; but it is not by any means so common as the green. I have asked in several shops where this paper is sold why they had it, whether they did not know the danger of it, and they said, yes, but it never faded, and that it was found to show off optical instruments and other instruments better than any other colour. I had on one occasion a loaf of bread served on my table at breakfast, and the bottom crust of it contained this arsenite of copper; and I afterwards traced it to the baker's shop, where I found that he had had his shelves papered and the shop re-decorated, and there I found something like 150 loaves placed upon the shelves in contact with this arsenite of copper. I think it is really a most dangerous substance to be allowed to be used in the free way in which it is.

828. Marquess of *Salisbury*.] Is it used in water-colours?

Yes.

829. *Chairman*.] Can you suggest any legislative enactment that would prevent its being used?

It is just a question whether the terms of this Act do not, to a certain extent, do so; arsenic and its compounds are placed in the schedule. It might be a question whether it should not be compulsory, as in Prussia and in other countries, to use some other green, because there are other greens which can safely be used.

830. Earl of *Derby*.] I think you said that this is the most permanent green that you know of?

It is considered so; it does not fade or tarnish in the way that other greens do.

831. Marquess of *Salisbury*.] Does the colouring of arsenic alter the taste of it?

No, the colouring gives no taste to it. This (*producing a bottle*) is a substance called carbazotic acid.

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832. *Chairman.*] Do you think that there would be an advantage in using this substance, instead of the indigo or soot which is proposed in the Bill?
No.

833. Why do you think so?
It is of a yellow colour, and by candle and gas light it is hardly visible; it is obtained from gas-tar in large quantities now, and is remarkable for giving a beautiful yellow dye to silk; this would be immediately washed out of the arsenic. This (*producing another bottle*) is the carbazotic acid mixed with arsenic, and this is in solution with water (*producing another bottle*). I would say, that I object to the carbazotic acid, because I think it would be so easily removed by washing, and it would not be seen by candle-light; indigo would be seen by all lights.

834. Marquess of *Salisbury.*] You have mentioned the use of arsenic for steeping wheat; would any colouring affect the use of it for that purpose?
No, it would not.

835. It would be equally advantageous for that purpose?
It would be equally advantageous.

836. With regard to sheep-wash, how would it be?
The colouring would not at all affect that; but the carbazotic acid, I ought to state, is a poison of itself, and I do not think that it would be quite safe to use one poison to colour another poison.

837. Earl of *Derby.*] Particularly in the hands of ignorant and inexperienced people?
Yes; where they are left to use it *ad libitum.*

838. Lord *Rossie.*] Are you aware that arsenic is used for colouring wooden penholders?
I am not aware that it is; but it might be used for such a purpose.

839. Have you never had children brought to the hospital with symptoms of poisoning from arsenic, who had been employed in the manufacture of wooden penholders?
No, never.

840. *Chairman.*] Does any other fact strike you as worthy to be mentioned to the Committee, proving the necessity of some legislation in this matter?
I think that legislation would have the effect, not certainly of doing away with poisoning in any form, but of considerably reducing the number of accidents from poison, and also rendering it more easy to trace out crime where poison has been obtained for criminal purposes. We could never prevent poison being used for suicidal purposes.

841. Duke of *Somerset.*] You have been for so many years brought into connexion with poisoning cases that your mind is familiar with the subject; have you considered the law in France, or in other foreign countries?
Yes, I have.

842. In France, we are told, there is a very strict law to prevent the sale of poisons?
Yes, there is.

843. But at the same time there is no definition of poisons?
No; but they give a list of the different substances which are not allowed to be used, except under certain restrictions. I can place before your Lordships a copy of that list; it was very much increased during the time of Louis Philippe, but it has since been diminished by the present Emperor, when President of the Republic; and in France the law now is, with regard to a certain list of substances, dated the 8th of July 1850. This is a French book, which I thought your Lordships would like to see with reference to the sale of poisons in France. It contains the whole of the French Regulations.

844. Earl of *Derby.*] Those are the scheduled substances?
Yes. The number of substances in the French schedule, according to the law of the 8th of July 1850, amount to 19. They are prussic acid; the vegetable alkaloids and salts; arsenic and its preparations; belladonna, extract and tincture; cantharides

cantharides or Spanish flies; chloroform; hemlock, extract and tincture; cyanide of mercury; cyanide of potassium; digitalis, extract and tincture; tartarized antimony; nicotianine (the volatile oil of tobacco); nitrate of mercury; opium and its extract; phosphorus; ergot of rye; stramonium, extract and tincture; and corrosive sublimate.

845. *Chairman.*] Can you state what the difference is between that enumeration and the enumeration which is contained in Schedule A. of this Bill?

Yes. There are some poisons which do not appear to be much used in France. Poisoning by oxalic acid is very rare in France. There are about 23 articles in the schedule of the Bill. Perhaps the articles might be reduced in number. I have taken a list of 13 that I thought might comprise all that would be necessary. I have here a list, which shows at once what articles are common to the English and the French lists, and in what respect they differ. We have, both in the English and the French lists, arsenic and its compounds; corrosive sublimate and its compounds; the poisonous vegetable alkaloids; prussic acid; the cyanides of mercury, potassium, and silver; cantharides and its preparations; belladonna and its preparations; hemlock; opium in tincture, extract and powder; foxglove and its preparations; stramonium and its preparations; chloroform and its compounds; and tartarized antimony. Then we come to those which are peculiar to the English list. They are, oxalic acid; binoxalate of potash; nux-vomica, seeds and bark; cocculus indicus; savin; lobelia; chlorides of zinc and antimony; essential oil of bitter almonds, and any mixture containing it; and aconite. Then we come to those articles which are peculiar to the French list. They are, phosphorus; henbane, extract and tincture; nicotianine (the volatile oil of tobacco), and nitrate of mercury.

846. Will you state what are the 10 substances that you would expunge from Schedule A.?

I have drawn up this list of 13 substances: arsenic; corrosive sublimate; the alkaloidal poisons; prussic acid; cyanide of potassium; the essential oil of bitter almonds; opium, including laudanum; chloroform; oxalic acid; salt of sorrel; nux-vomica; and tincture of aconite. Those are all the substances that I should recommend to be included in the list, and that makes the number of 13, taking laudanum and opium as separate articles.

847. Marquess of *Salisbury.*] Do you know of any poison of which no trace exists after it has been taken?

Yes; there are several that would destroy life without leaving any trace of any kind in the dead body.

848. Duke of *Somerset.*] Those articles which you have read which are enumerated by the French law, are obliged to be kept under lock and key?

Yes, and the key to be kept in the possession of the chief pharmaceutist of the shop.

849. Are not those substances wanted frequently to mix with others?

Yes, some of them are; for instance, foxglove, hemlock, tartarized antimony, and opium.

850. It has been stated to the Committee that great inconvenience and danger would arise from a regulation of that kind, because so many of the poisonous substances would be taken out frequently to make up other compositions, that there would be great danger of their being left out?

Yes, of course that must always arise, but I believe that in well-regulated shops now they never put down upon the counter any dangerous poison. The practice in well-regulated pharmaceutical shops is to take the laudanum or arsenic bottle from the shelf, use it for the dose, and immediately return it to its place.

851. Earl of *Derby.*] The Committee have to consider the amount of legislation necessary for irregular shops?

I think that some regulation, by which some compartment of the shop might be set aside for containing these powerful substances (it might be made a little easier than the Bill proposes), would be a great safeguard to the public.

852. Lord *Rossie.*] How would you meet the case of opium, where labouring men come to the extent of 200 or 300 a day for opium?

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I think there ought to be some limit to that; but even now there is a difficulty. I heard, only the other day, of a gentleman in the City who went into a shop to procure some laudanum where he was not known. He asked for a drachm of laudanum, it was for the toothache, and the person refused to serve him; for many chemists now are quite afraid to sell poisons in the present uncertain state of the law. The gentleman went into another shop, and they would not give him the quantity that he asked for, but they gave him 25 drops, and no more. I doubt whether, at the present time, except in the low class of shops, any labouring man could go in as he pleased and get served.

853. Earl of *Derby*.] He might get any quantity in the low class of shops?

Yes. If there was not time to consult a medical man, the better way to meet the case would be, that the dose should be swallowed in the presence of the druggist.

854. Lord *Rossie*.] Do you not know that in many large manufacturing towns they put down their penny and get opium?

Yes; and I am afraid that a bad use is made of it in that way.

855. That is done to a great extent?

Yes.

856. To the extent of as many as 200 a day?

I was not aware that it was so large as that; but I am aware that in the factory districts there is a very large sale of opium. If you allow the purchase of a pennyworth, you must allow the purchase of an ounce, and the drug certainly causes a large number of deaths annually, 37 per cent.

857. Supposing you were to stop that sale in the manufacturing towns, do you not think that there would be other low shops that would take up the sale?

I think that they should all be placed under the same restriction.

858. Do you think that you would be able to stop the sale of opium?

I am afraid that a smuggled sale might go on, and that is one of the difficulties in dealing with a question of this kind; there are so many persons who are ignorant, and who are perhaps easily moved, for the sake of gain, to deal in these things, quite a low class of sellers, who have them now in their hands. I have a list of the number of persons now engaged in the business of druggists in this country. There are about 15,643 persons engaged in the sale of drugs and chemicals through England and Wales; the number of pharmaceutical chemists, represented by Mr. Bell and others, amount to 2,500. Then in 1831, according to the Registrar-general's return, the chemists and druggists in England, including all those who dealt in drugs, amounted to 5,835. In 1851 there was a more special classification, and it was found that under 20 years of age there were 3,644 persons engaged in the sale of drugs, and 20 years of age and upwards, 11,999, making 15,643; and in that you have a great medley and variety of classes, some who will not sell at all, others who will sell under caution, and others who will sell anything on application.

859. Marquess of *Salisbury*.] Is there not some danger, if the law is too strict, that more evasion would be resorted to than is the case at present?

Yes; and I think that the law might be made more strict without making it too strict: for example, I would suggest with respect to keeping these medicines in a shop, that there might be a central compartment of the shop, where only those substances which your Lordships think necessary to place in the list, should be kept. At present that rule is followed, more or less, in every well-regulated shop. There is always a separate part where you find the strychnia, the arsenic and other substances. Then I think that if there were 13 substances, and your Lordships struck out the Index Expurgatorius, Schedule B. altogether, and the list of substances in Schedule A. was reduced to the 13 which I have mentioned, there would be a very small amount of trouble given to the druggist compared with the amount of safety that the public would receive. I can only name one drug that would give trouble, and that is laudanum; that is a difficulty. But when I tell you that there are so many deaths arising from the incautious use of it, and that it is used for homicidal purposes among children, the omission of it would be like legislating for three-fifths of the deaths, and leaving the two-

fifths

fifths to go on as they have done, and probably to increase, if there were a restriction upon all but laudanum.

860. Lord *Rossie.*] If a small limit was put upon the quantity of opium, might it be sold without the other precautions; such as that a druggist might sell a pennyworth, but no larger quantity, and without coming under certain restrictions; would that have any effect?

Yes; because that would meet the case of many poor persons requiring the drug without any improper intention; they could supply them with what they actually require without any unnecessary restriction.

861. Earl of *Derby.*] What quantity of laudanum would be obtained for a penny?

About 20 to 25 drops; that would not be a poisonous dose for an adult.

862. If 20 or 25 drops were administered to an infant with the view of quieting it, what would be the effect?

It would cause death. If an adult came into a shop, and asked for a dose of laudanum, I would suggest that he should be permitted to drink it in the shop. It has been suggested, which undoubtedly would take place, that a person could go to 50 shops and get 50 times 25 drops, which would be just the same as allowing the person to buy it all at one shop.

863. Have you ever considered the effect of requiring that after a certain time no person should be allowed to sell any poisonous substance without having received a licence upon examination?

Yes, I have; and I think that it would be an excellent plan, if it could be carried out, to allow the present possessors of druggists' businesses to go on for a certain period; that they should then be registered and licensed, and that after another certain period to be named, no person should be permitted to practise that business without a licence. I would let the old ones die out.

864. Or the register might be allowed to expire?

Yes; but I would require a proof of education after a certain time; that you could not require from persons at present practising.

865. Supposing that a period of five years were fixed, and that persons registered should receive their register available for five years, but subject to the condition that before the expiration of the five years they should qualify themselves to pass a certain examination in the use of certain specified scheduled poisons, do you think that that would be a good plan?

I think that in that way you would get rid of a great number of those persons who ought not to deal in drugs, because they would be frightened at the examination, and would give up business.

866. Do you think that there would be a danger of a deficiency in the country districts of properly qualified persons, if they had a notice that at the end of five years those who were qualified would have a monopoly of the business?

I do not think that there would be any deficiency.

867. Lord *Rossie.*] How would you propose that the examination of those persons in the country should be conducted, with a view to ascertaining whether they were duly qualified?

There could be only one proper Board for it (and that the French have been obliged to come to); that is by establishing a competent Board in London for England; in Edinburgh for Scotland, and in Dublin for Ireland.

868. All parties would have to go to the metropolis?

Yes. The French tried the plan of having first a high-class Board for examining men of good standing and professional information, corresponding to our pharmaceutical chemists, and then a secondary Board, called the communal juries, who were men who had practised in the country, and they formed a Board of four or five, who examined, and gave a licence for practising in that particular district, but it gave rise to so much abuse, that it was abandoned, and a law was passed that they must all go to a College of pharmacy to be examined, and that is at Paris, Lyons, or some other city.

869. Earl of *Derby.*] Do you think that some subordinate authority might be

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authorised to grant licences of a second class, leaving those of the superior class to apply for a first-class licence, for which they should come up for examination at the central Board?

I think that they might come up to the central Board, and you might have a licensing body, and that licensing body might be allowed to hold a minor examination.

870. In that case you would compel every country druggist to come up to London before he could be licensed to sell any of those scheduled poisons?

Yes. Those poisons which are scheduled really do demand a good amount of information in dealing with them, for the safety of the public.

871. Are not those scheduled poisons, or some of their preparations, in such common use, that excluding a person from the sale of them, would practically exclude him from the business of a druggist?

No. I have already suggested to your Lordships that the number in the list might be reduced from 23 to 13. There is arsenic: there is only one important medicinal preparation of arsenic, and that is called Fowler's mineral solution; the Royal Colleges of the three kingdoms were so impressed with the necessity of colouring poisons, that they ordered the compound tincture of lavender to be put in it, for the very purpose of guarding from accident. That is the principal medicinal preparation of arsenic, and that is not much used except in certain parts of the country, in the fenny districts, where ague abounds; it is taken as a remedy for that disease; but I think that it is such a dangerous preparation that on no account should it be put indiscriminately either on the counters or on the shelves of shops; and in very few shops is it so put at present. Then there is corrosive sublimate: that is seldom used in medicine. Arsenic in powder as a rat poison, is very much in demand; corrosive sublimate not so much; it is used for bronzing gunbarrels. Then there are the alkaloidal poisons: I doubt whether any person ought to be allowed to sell a poison of that kind without being qualified. Then there is prussic acid; and cyanide of potassium, which is very much used now by forgers. Almost the sole purpose for which it is employed is for coating base silver coin; it is also used to some extent for the purposes of photography and electro-chemical plating. Then there is the essential oil of bitter almonds, which is not used in medicine at all, and with regard to dispensing, it is used as an almond flavour for pastry; but as prussic acid is contained in it, the sooner its sale is prohibited the better. Then there is opium and laudanum; and that presents a difficulty, for laudanum is very much used. With regard to chloroform, I do not think there can be any objection to that; it is a good deal used by medical men, but not for any other purposes except for making varnish and taking out grease spots. The demand for chloroform by the general public is not very large. It is very large by the profession; and if there were a large demand by the public, I should immediately suspect robbery or thieving, or something improper. Then oxalic acid and salt of sorrel would be perhaps the substances in the whole list which are most frequently sold to the public; oxalic acid is used for cleaning boot tops and bleaching straw; but it gives rise to a great number of accidents, and causes six per cent. of the deaths from poison. Then there is the tincture of aconite, upon which certainly there ought to be some restriction. There is nux-vomica; the only use to which it is put is for poisoning vermin. So that in answering the question generally, I would say that, looking to the 13 articles, I do not think that the business of a country druggist would be materially interfered with if the sale of these substances was restricted.

872. Are there no drugs in ordinary use in which any of those articles are component parts?

I would propose, in order to remedy a difficulty of that sort, that Schedule B. containing the exceptional preparations, should be entirely struck out, so that your Lordships might have only a concise list, which may be still further reduced; that your Lordships should say, These articles must be sold under the restrictions of the Act, and kept separately, if not in a closet, at any rate in separate compartments, from other things in the shop.

873. Lord *Rossie*.] You recommend 13 articles?

Yes; because most of the cases of poisoning that I have had to deal with have

have included some of these articles, and in most of those cases I think precaution might have saved life.

874. The pure poison you would subject to these regulations, but a mixture of it you would not include?

I think you must leave that, or else it would give rise to the objection that it would so hamper the business of a druggist that he could not carry it on.

875. Earl of *Derby*.] With regard to dealing in those 13 poisons, you would be in favour of the system of present registration, and future licensing after examination?

Yes.

876. *Chairman*.] Would the future registration apply after a term of years, or would you give a license for life to all those who are in the habit of dispensing those drugs?

There are a great number of persons at present engaged who ought not to be engaged in this business; small grocers and oilmen in the country. I think if some regulation, suggested by your Lordships, could put out that class altogether, it would do away with two-thirds of the accidents that occur.

877. Earl of *Derby*.] If a period of years were allowed to each of them during which they must either qualify, or at the expiration of the period give up business, you think it would be advantageous?

Yes.

878. *Chairman*.] What, in your opinion, would be the best constitution of a council to superintend the granting of these licences?

A council formed, say of one or two members of the Royal College of Physicians in each country, and of the Pharmaceutical Society, or of the Apothecaries' Society; at any rate I would have on the Board five or six men, some acquainted with drugs as well as some acquainted with medicines and their properties; I think, then, that there would be great security in having men of skill and knowledge upon the Board, and in that there would be a very great provision for the safety of the public in reference to the dispensing of drugs.

879. Have you any knowledge of the existence of any amount of jealousy between those bodies?

There is, I believe, a great jealousy among them; the Apothecaries' Society and the Pharmaceutical Society are very much opposed. The Apothecaries' Society rather invade the Pharmaceutical Society's privileges, by the fact that there are some 8,000 or 9,000 men now in this country licensed by the Apothecaries' Society who act as druggists, and sell drugs, as well as practise medicine, Then there are a great number of pharmaceutists, without any medical certificate at all, who prescribe for patients, and it is a great difficulty in this country that we have one body quite incompetent to prescribe invading the privileges of another without any examination, while the one who is competent is invading the business of the other, and that creates a conflict of feeling.

880. Lord *Rossie*.] You think that a body might be selected as an examining body?

I think so.

881. *Chairman*.] Would you recommend that that body should be constituted in the Bill at once, or would you think it better that it should be left to any authority?

My opinion is clearly this, with regard to suppressing or restricting the sale of poison, that society would be in a better position by having a competent class of dealers than by very close restrictions regarding the keeping of the poisons.

882. Admitting that; supposing the Committee were of opinion that it were desirable for the future to have an examination by a public body, do you think that the examining body should be constituted by the Bill?

I have thought with regard to that that a large body need not be selected; that four or five men should be taken from the College of Physicians and the Society of Apothecaries: whether your Lordships would think that the Pharmaceutical Society occupy such a position that they should furnish members or

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not, of course it is not for me to say; but they have not yet the educational position that the College of Physicians and the Apothecaries' Society possess.

883. Lord *Rossie.*] Are there any other societies besides the Apothecaries' Society and the Pharmaceutical Society?

Not with reference to the sale of poisons or medicines.

884. So that if you selected from each of those two bodies, you might get rid of any jealousy which exists between them?

Yes. The Pharmaceutical Society have done a great deal for improving the status of the druggist. Whether there are not one or two members of that society who, from their experience, would be proper persons to add to the Board of Apothecaries and Physicians is a question for your Lordships.

885. Earl of *Derby.*] Supposing the Board to be composed of members of the three Societies, would you require that the certificate should be granted by the full Board, or that one or two members of the Board should be entitled to examine and to grant a license, signing his or their names?

I think that two or three would suffice, at any rate at first, until you had worked up a more competent body of men.

886. Then you might form a Board which should consist of 10 or 12 individuals, any three of whom joining together might be sufficient to grant a licence or certificate?

Yes.

887. *Chairman.*] Do you think that such a Board could be made self-supporting by small fees?

I think it might, and I think that the chemists and druggists, by adding a little to the price of the poisons, might contribute that fee, and they would be rendering a great service to the public likewise.

888. Earl of *Derby.*] Would you contemplate different classes of licences?

The only ground, at present, would be just to include the lower class, which it would be hard to throw out, but merely giving them the privilege of vested interest for the present. I would only contemplate hereafter one class of practitioners, of well-informed men, because either a prescription is to be made up well or badly; and with regard to many druggists now, I feel almost a fear in writing certain prescriptions, or in recommending persons to take them to certain shops. Some druggists, who are exceedingly careful, have an enormous business on that account, for people send to them from all parts of London, because they fear to send to other shops.

889. Do you think that the fact of a first and second class certificate would not tend to produce a degree of emulation in the profession which would generally improve the whole?

I think that a bad effect of a second-class certificate would be, that a certain number of persons would prefer it to the other.

890. What makes you think that that would be its effect?

Probably the diploma or certificate would be cheaper, and it would be made more accessible to them; we notice a great deal of this in medicine.

891. Lord *Rossie.*] Do you think that if due notice, either in the shop or some other place were given, that the keeper of the shop had a first-class certificate, it would induce the public to resort to it?

I think so.

892. Earl of *Derby.*] Do you think that supposing there were two classes of certificates, a person being entitled to put up over his door "First-class pharmaceutist," would give him an increase of business as compared with a second-class man, which would make it worth his while to apply for it?

I think so.

893. Would not that be an inducement to the improvement of the profession?

Yes. We only notice this, that a class of persons get into the medical profession who aim at procuring the cheapest licence in the shortest time, at the smallest cost that they possibly can, among the Society of Apothecaries, both in this country and in Ireland; but with regard to that, we always look with higher

higher respect upon a man who has taken out two or three diplomas than upon a person who is contented with one.

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894. Would you contemplate also any examination or licence for persons acting as assistants to druggists, under the head of, say, "Passed Assistants," so as to prevent the dispensing of poisons in a druggist's shop by a mere apprentice?
Yes; I think that would be a very proper regulation with regard to the dispensing of such substances as those which are mentioned in the Bill.

895. I am speaking of the persons employed under those who keep shops?
Yes; and a great number of fatal cases have occurred from poisons being supplied by that class of persons.

896. Although a druggist might take a lad as his apprentice, he would be made liable if that apprentice, not being a passed assistant, should dispense any poisons in his master's shop?
Decidedly so; that would operate very well.

897. Lord *Rossie*.] It has been stated to the Committee that there is a great difficulty in getting those assistants; that the numbers who apply are too few?
I think it is partly the case, because they are paid so badly.

898. Earl of *Derby*.] Unless the master had a passed assistant he would dispense the poisons himself?
Yes.

899. Duke of *Somerset*.] In what period, from the present time, do you think we could expect to get a number of chemists and druggists educated to a degree sufficient to pass such a Board as that which you propose. Supposing that you were to begin with the register now, at what period might we fairly fix after which no person should be allowed to sell without passing an examination?
I think that a fair latitude would be the period of five years.

900. Do you think that in this country, with the scarcity of chemical knowledge, which is admitted to be the case, in five years a sufficient body of men could attain that information as head people keeping shops?
Yes; I think that within five years you would not have a large body of them, but you would have a very good nucleus for working on. There are many young men now who hardly know what to do with themselves, and they do not find that they get any benefit by going into a druggist's business; they have no reason for studying in a scientific manner.

901. Where could they get such an education at present?
Some of them obtain it at the chemical and pharmaceutical lectures at the medical schools, others at the pharmaceutical schools, and others at private laboratories; but the larger number obtain their education by being taken into a shop, and by being taught there.

902. Lord *Somerhill*.] Would you allow a person who had not himself a certificate to sell those drugs, provided he had an assistant employed in his shop who was so qualified, or would you make it a *sine quâ non* that the shopkeeper himself should be the person responsible?
I think if you were to make the shopkeeper responsible for the act of his assistant, and require a competent assistant, that would meet all that would be necessary. There was a case last summer in which a boy of 14 or 15 served out black drop instead of black draught; and I have known a person poisoned by going in and asking for opening medicine, and being served with opium medicine.

903. Lord *Rossie*.] You said that you thought if there were two classes of certificates, the difference of expense would induce many persons to apply for the second-class certificate; why should there be a difference of expense beyond the expense of education?
I only presume that with a second-class certificate there would not be perhaps the same rigorous or expensive course of instruction required.

904. *Chairman*.] Supposing the Committee were inclined to recommend such a Council of Examination, what would be the best way of constituting it?
I think that three members from the College of Physicians, three from the

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Apothecaries Society, and three from the Pharmaceutical Society, would be sufficient. I hardly know that I could name to you the mode of electing them; but I think that three men chosen according to their knowledge and experience and position in their respective societies, would be the proper mode. I think that that council of nine, with a power in three to examine and to license, would meet nearly all that would be required. I think that three taken out of each corporation, if the Secretary of State were allowed to name them, would do. I do not know whether you would allow the Societies themselves to choose them, but you might easily find three men competent enough in each of those three societies.

905. Would it be the best system to allow each of those bodies to elect three persons to represent them, or do you think that the selection of the members of the bodies should be left to the Secretary of State?

I think that it might be compromised in this way: the Secretary of State, of course, would act upon advice in such matters. If six names were presented from each corporation of the members who were thought qualified for the purpose, then the Secretary of State might be allowed to make his selection of three out of the six.

906. There is no other body that occurs to you, excepting the three that you have mentioned, from whom such a selection ought to be made?

No, there is not; it requires a knowledge of medicine, a knowledge of chemistry, and a knowledge of drugs—all three; and we have no body in this country, beyond those which I have mentioned, who have any cognizance of such matters.

907. Lord *Rossie.*] There are certain vendors of medicines and practitioners who prepare their own medicines, such as, I believe, in the case of lobelia?

Yes.

908. Would such a person have to submit to such an examination by this Board?

Yes, he would; I would say that all persons who prescribe and dispense ought to submit to it.

909. Do you not think that such a person would be looked upon with suspicion by this Board, and would fail to obtain a certificate, and therefore not be able to practise?

Yes, I think he would; with regard to the examination, that would be matter for consideration; it would not be, I presume, in reference to medical practice; I have not understood it so; it would be rather in regard to the competency to sell drugs.

910. After five years a homœopathic doctor might not prepare his own medicines and dispense them, without being subject to an examination before this Board?

Not if they contained the scheduled substances; I am restricting it to 13.

911. Marquess of *Salisbury.*] How would that examination affect the patent medicines?

It would affect them undoubtedly. I have made a list of what patent medicines there are, and what they contain. The principal patent medicines are 26 in number; 10 of them contain opium, three contain arsenic, four contain tartar emetic, seven contain corrosive sublimate, one contains Spanish flies, and one contains salt of sorrel; I have confined the patent medicines to those articles which are contained in the schedule. Now I think that the general answer to the case put would be this, that no person under any pretence whatever should, upon his own statement, be allowed to deal in those articles, if we are to regard the safety of the public. He ought to have a fair hearing, but he ought to satisfy the examining members of the Board that he does know what the properties of those things are, and if he does that, there can be no difficulty.

912. Lord *Rossie.*] If he knows that such a quantity of such a medicine would poison a person, and what its effects are, you think that that would be sufficient?

Yes.

913. *Chairman.*]

913. *Chairman.*] With regard to the constitution of the Board which you propose, a Board which is appointed, and which is to have the exclusive right for the future of giving licenses to persons to sell certain poisons, there are certain persons, such as homœopathists (and there are a large number of persons who believe in that system of medicine), and there are homœopathic druggists; how far would it be considered fair to bring them to be examined for the sale of these poisons before a body of persons composed of those whom they consider hostile to their views?

I hardly know how the homœopathic medicines would come into the schedule at all, for I have examined most of the globules, and I never found in them what was professed to be there; in point of fact, if they put arsenic in a globule, and arsenic is found there, they would be involved in the penalties of the Bill, but the doses are so infinitely small, that according to my experience they are beyond the reach of any test that we can apply for the discovery of poison.

914. Lord *Rossie.*] The common tincture of aconite would of course come under the restriction of your poisons?

Yes, it would.

915. Duke of *Somerset.*] In France there is an examination, and they have homœopathy there as well as allopathy; how does the system answer in France?

In France there is a college of pharmacy.

916. Does that college include some persons who practise homœopathy?

No; I believe it only includes those belonging to what we call the regular system.

917. Earl of *Derby.*] Would it be necessary, in your judgment, that veterinary surgeons should pass the same examination, as they would have in their practice to dispense many of these poisonous drugs?

Yes, they would; and I have a list of what they use; the substances which they use are, tartarised antimony, arsenic, opium, hemlock, Spanish flies, corrosive sublimate, and chloride of zinc.

918. Would you require that before a man could exercise the business of a veterinary surgeon he should be subject to an examination, because those substances are essential to his business?

Veterinary surgeons do not commonly act as druggists; the business of selling veterinary medicines is carried on generally by druggists in this country, so that the druggists are the persons dealing in such cattle medicines; I do not know of any instance in which a veterinary surgeon keeps a shop of that kind. Veterinary surgeons seem to give up all the dispensing; they act like surgeons of the Royal College; but I believe they do not generally supply the medicines themselves in England.

919. Lord *Rossie.*] They do so in Scotland?

In Scotland they may do so.

920. *Chairman.*] Supposing the Committee do not think it wise to go into the question of licensing; do you think that all those restrictions which are put in the Bill are necessary, or what modifications would you suggest; and then, after having stated that, will you state your opinion as to what regulations are necessary, supposing regulations are adopted by which persons who have shown by their examination that they are competent to dispense poisons shall be allowed to do so?

I have drawn up a few notes upon that subject. The observations which I beg leave to offer to your Lordships are, first, upon the assumption that there is no licence. I have marked the clauses one by one. The first clause upon which I have a note is clause 2, which repeals the Arsenic Act; and I have noted that I consider it better that there should be one general Act than two referring to the sale of poisons. I have already stated to your Lordships that, in my judgment, so far as I can ascertain, the Arsenic Act has been attended with some good, though not with all the good that it might have been if its provisions had been strictly enforced; but there is no person to enforce it; that is an omission with regard to the restriction upon the sale of arsenic. It appears to me that any reason which justifies an Act for the restriction upon

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the sale of arsenic, justifies it also with regard to corrosive sublimate and some other poisons. The Arsenic Act does not extend to arsenic in solution; that is a very important omission; so that the poisonous solution of arsenic appears to have been sold all over the country without any of the provisions of the Arsenic Act having been referred to. A man might go into a shop, and say, "I want half an ounce of white arsenic;" the person would say, "I cannot sell it; but I can dissolve it in water, and let you have it in that way." That shows that some improvement in the Arsenic Act is required. Then I come to the third clause, which has reference to the definition of the word "Poison;" that it should refer to a list of substances contained in the schedule. In the absence of a list of substances, the use of the word "Poison" would render any Act, in my opinion, inoperative; for there can be no strict definition of the word "Poison." Most poisons are used as medicines, and most medicines are poisons. Arsenic is a poison or a medicine, according to the dose and intention with which it is given; so that to exclude all substances because there are many poisons not entered, or to exclude some because they are medicines, would effectually prevent legislation. Then—I beg your Lordship's attention to this—some of the substances in the schedule, although they are undoubtedly poisons, are not used as medicines at all. Those are the cyanides of potassium, mercury and silver, the chlorides of zinc and antimony, the essential oil of almonds and almond flavour, the nux-vomica seeds and bark, and cocculus indicus; they are used for flavouring confectionery, and poisoning vermin; they are very active poisons, and it would be desirable, therefore, with such limited use as they have in dispensing, that they should stand in the list.

921. Duke of *Somerset.*] You define your poisons in that clause 3 to be those contained in your schedule, which is to consist of 13 articles?

Yes, for the purposes of the Act.

922. Lord *Rossie.*] And in that clause you would except the compounds?

Yes, I would except the compounds. The wording of the Act would go to the sale of the substances generally—arsenic and its compounds; but it would exclude, in regard to hemlock and some of the others, those which are used in medicine in the form of pills and extracts.

923. Then it would be referred to in Schedule A.?

Yes; it would be removing Schedule B., and merely putting restrictions on the articles in Schedule A., so that all medicinal preparations may be excluded.

924. Clause 3 states, "Poison shall mean any drug or substance mentioned or referred to in the Schedule A. to this Act"?

Yes; and then if there should be any ambiguous word in Schedule A. that would appear to refer to a frequently dispensed article, it might be amended. Clause 3 exempts all medicines made up on prescriptions. That would include some patent medicines; patent medicines containing opium would be included; for instance, asthmatic elixir, Battley's sedative solution and black drop. Unless we kept strictly to opium and laudanum, some word like that in the schedule would leave all the patent medicines free; but if you put in opium and its preparations, that would include Battley's sedative solution, Black drop, Godfrey's cordial, Dalby's carminative, and some other patent medicines: so that it will be necessary in the schedule to define precisely what is understood by opium and laudanum; it might be so expressed, if your Lordships thought that the others should be sold as they are now. Then with regard to veterinary medicines, they are exempt under the prescriptions of veterinary surgeons by the 11th clause.

925. Duke of *Somerset.*] You would leave that exemption?

I would, just as we do for medical men, because they are members of a veterinary college, and have undergone an examination. Clause 4 implies power in the Council to amend all the lists: I think that is a very proper provision, because a substance may be struck out if it is found inconvenient, or another put in if necessary.

926. Earl of *Derby.*] Do you think that the chemists throughout the country would have sufficient notice if an alteration, involving penal consequences, were made only by an Order in Council?

I think

I think they would; I think it might be put in the Gazette, and advertised through the recognised organs of the pharmaceutists.

927. Lord *Rossie.*] Do you think that it would be advisable to have any other authority besides that of the Queen in Council?

I think that, on advice given, and evidence taken, it might be said, "There is a substance which is introduced into this country, which is now getting into extensive use, and it is desirable to place that in the schedule.

928. You would not include the College of Physicians, or any other body?

No, I think not.

929. You would of course exclude in that clause any compound?

Yes. Then we come to clause 5; the sale to a person of full age, in presence of a witness of full age, known to the person selling the arsenic, and to whom the purchaser is known. This clause differs from the 2d clause of the Arsenic Act in this important particular, that it requires the witness to be of full age, which I think is a very necessary provision. In one case upon which I had to give evidence there was a most shameful evasion of the Arsenic Act, by causing a little girl of eight or nine years of age to stand upon the door-step of the chemist's shop, while the person went into the shop to buy the poison, and all that she could depose to was, that she heard the jingling of the scales, and nothing more.

930. All those poisons you think must be sold in the presence of a witness?

Yes, I think so.

931. Did you hear the proposal that a certificate from a householder should be a sufficient authority?

Yes. There is one point with regard to that clause, which is this; that the person who sells the poison may be of any age, but the person buying the poison must be of full age, and the witness must be of full age. It is only a question whether the person selling the poison should not be either, as Lord Derby has suggested, an examined assistant, or the master of the shop. I think that that would be no very great hardship with regard to 13 substances; it would be a hardship if you took 74, according to the old French system, and required the master of the shop, or an examined and skilled assistant, to serve out the articles mentioned in that schedule. As long as the unskilled class exists, there should be a person of full age. I made inquiry of a respectable druggist in London, who had been in business many years, about the sale of poisons, and he told me that for some years he had given up the sale of them, and that now he only sold laudanum, and that he only sold the drug in doses of 25 drops; but if poisons were allowed to be sold with certificates, he should return to the practice of selling them.

932. *Chairman*] Why does he not sell them now?

At present he feels in an uncertain state regarding his liability, and he would rather have nothing to do with it; and that is the case with many druggists; they will not sell even laudanum. There is more difficulty in some cases in procuring laudanum at present than there would be by the restrictions of this Bill. With regard to the certificate being signed by a clergyman, a medical practitioner, a magistrate, or two resident householders, I beg to say that I think the sale of the poisonous alkaloids should only be on medical prescription, and not on certificate at all.

933. Lord *Rossie.*] How would a person obtain cyanide of potassium?

By certificate.

934. The certificate of a magistrate?

A medical man, a clergyman, a magistrate, or two resident householders. Cyanide of potassium is very much used in silvering metals and in photography.

935. If I sent to a chemist I could not get it?

No; unless you had a friend in the profession, or you applied to a neighbour. A person must obtain a certificate from one of those parties.

936. Even laudanum and opium are included in your list?

Yes.

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937. So that you could not get them in the country without getting the certificate of a magistrate, or two householders?

No, unless you limited the dose that might be sold. But I was going to make a suggestion here about the certificate, that a great deal of the difficulty might be taken away by having a continuing certificate; that is, a certificate which would still serve for purchasing; say that the certificate is issued in this way, that a person goes to a shop and buys a poison; let the person who sells it copy the certificate in the book, but let him stamp or endorse it to indicate that the poison has been sold, so that there may not be a constant application for a renewal of the certificate. Opium is frequently required, and it would be very troublesome to have to apply for a certificate whenever opium was wanted. A gentleman had the greatest difficulty the other day in getting only 25 drops, and I think if I went into many shops they would decline to sell it to me; they decline to sell to medical men unless they know them; some will do it, and others will not. The 6th clause refers to the date and circumstances of the purchase; they are very much the same as in the schedule to the Arsenic Act. The only difference is the entry of the name of the person giving the certificate, and they are not more troublesome than the entries in France. Supposing, in reference to the question which was put to me by one of your Lordships, that a medical man certified, I certify that So-and-so requires laudanum for use as a medicine, and that certificate were made continuous for six months, I do not see that that would be a great bar to procuring it for a lawful purpose.

938. In country places it might be?

Yes, in country places it might be; I would only suggest with regard to the 6th clause, whether it would not be proper that a druggist should have the option of selling poison or not, as he pleases; that he should not be imperatively required by the Act to do so; for there are some who strongly object to selling poisons at all.

939. The colouring would interfere with its operation (cyanide of potassium) for photography?

Yes, it would; that, I believe, by a subsequent clause, whenever any good reason is given, may be dispensed with.

940. Earl of *Derby*.] This clause requires that every bottle containing any such poison shall have the word "poison" cast or moulded in raised letters; do you consider that a necessary precaution?

I think it a very good additional precaution.

941. Is not there this danger, in the first place, that in country places persons come and bring their own bottles for the purchase of poisons; and in the next place, the danger that, after obtaining this bottle with the poison in it, the bottle will be used for other purposes?

If it is, it will still always carry its own precaution, the word "poison" being on it.

942. But finding it was not the fact that it contained poison, it being applied to other purposes by the poorer class of purchasers, would not that diminish the security arising from the raised letters?

Yes, as far as the ordinary use of bottles in households went; but as far as the druggists' shops are concerned, there would be the same feeling with regard to it.

943. Would you prohibit drugs being sold in a bottle brought by a purchaser, provided a label was put on it?

I would prohibit every one of the articles mentioned in the list of 13 to be sold in that way; I would not make that prohibition with regard to drugs in general. This (*producing a bottle*) is a blue glass bottle, which I think should be used for substances intended for external purposes. The blue glass gives a good distinction of colour; and this shows that the objection stated is not considered by the druggists a very great one, for some have been in the habit of sending out those blue bottles, containing substances for external application, for some time; and although they are liable to be used for other purposes afterwards, still there is a feeling that whatever is contained in a bottle of this kind should not be taken internally. I think, generally speaking, persons would be

be sufficiently protected if they put a medicine into a poison bottle, for that would prevent persons taking it.

944. Lord *Rossie.*] Does raising the letters add much to the expense of the bottle?

I think not; at first it might a little; but I was in Sunderland only a few days back, and made inquiry upon that point at Hartley & Co.'s works there, and they told me that it was the cheapest colour to use for glass; and when I mentioned the purpose, they said they thought it might be made after a time as cheaply as white glass.

945. In the meantime persons selling would have a difficulty in getting the bottles, and they would be put to additional expense?

I believe a London druggist finds no difficulty at present.

946. I mean country practitioners?

Certainly, there might be a difficulty there. The labelling is very well for people who can read, but a label is always liable to come off; and I have known instances where a phial has been found in the pan of a water-closet without any label at all upon it, and where some evidence was necessary to know whether it had contained poison or not. I am speaking now of a criminal case; but with regard to ordinary accidents from poisoning, the colour of the glass by day, and the angular form and roughness by night, would always give a sufficient intimation of the possible danger of using the substance. It would be impossible to legislate upon this subject without causing some inconvenience and expense. It is just a balance of whether we can possibly save life at the expense of a little trouble and cost.

947. The question is as to enforcing the use of those bottles; would you propose that it should be enforced by a penalty?

I suppose it would be under the Act, and the violation of that clause would be penal.

948. Whose business would it be to prosecute?

That is the very difficulty that exists with regard to the Arsenic Act; some prosecutor must be appointed.

949. Duke of *Somerset.*] Now as to clause 8, assuming that you have your schedule of 13 articles, would you propose to keep that clause as it is?

There is only one article to which colouring perhaps will not apply, and need not apply, and that is chloroform; the colouring matter of archil does not readily incorporate itself with it; but with regard to all the others, I should propose that it should be retained to all those that are colourless. In the case of tincture of aconite, laudanum and opium, you would not use it, nor the essential oil of almonds; but with regard to prussic acid I should think it a very proper thing. This (*producing a bottle*) will give the Committee an idea of the colouring of prussic acid by archil; there is one ounce of water to ten minims of archil, the quantity mentioned in the Act, and this is the archil itself.

950. Retaining the colouring matter for these 13 articles that are colourless would not interfere with the purposes for which they are required?

With regard to the alkaloidal poisons, I do not know that there is any necessity for colouring; still I should suggest that they should not be sold except under medical prescription.

951. You would have a separate regulation with regard to some of them?

They are only sold in grains, and certainly they are colourless, and the necessity for colouring is where the dose is rather large. The doses of these alkaloids when sold would be so small that colouring would hardly be requisite. It appears to me a case in which we might except the colouring as to alkaloids; but with regard to arsenic, corrosive sublimate, prussic acid, cyanide of potassium and oxalic acid, the colouring should be made indispensable.

952. Lord *Rossie.*] Would not that preclude the use of cyanide of potassium for photography?

Yes; but those who are photographers could remove the colouring directly; it would not do in photography to use it coloured, certainly.

953. Therefore that would preclude the use of it for that purpose?

Yes.

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Yes. With regard to colouring, arsenic is directed to be coloured by the present Act, and if it were rigorously carried out, I think it would save an immense number of lives in reference to the mistaking of arsenic for sugar and soda.

954. But it has not been carried out?
No, it has not been carried out as it ought to have been.

955. *Chairman.*] I think you stated that the colouring was more to prevent accidental poisoning than suicidal?
Yes; and we have the authority of the College of Physicians with regard to colouring the solution of arsenic to avoid mistakes, and those engaged in the use of poison for vermin find it necessary to colour it, so that we find a great protection in it.

956. Lord *Rossie.*] There would be a great protection if you could enforce it?
Yes. Then the colouring of solid and liquid poisons would undoubtedly come under the same head; of course, with regard to prussic acid, it might be a question whether, when wanted for a medical prescription, it should be sold coloured, but I think as much as we possibly can we should colour the colourless poisons. Chloride of zinc is not in this list which I have laid before your Lordships; I have here endeavoured to put in as small a schedule as possible of what ought to be shut up. In the 13 I have not included Burnett's liquid, and I have also excluded chloride of antimony. I have endeavoured to comprise the substances likely to occasion the greater number of deaths in this country; tincture of aconite and chloroform might be struck out; but I think that each substance should be well considered before it is struck out, because there are as strong reasons for retaining some as for retaining arsenic. Then with regard to colour, I think that indigo is the best for solid poisons, and archil for liquid, for they are both innocent substances, and give a strong colour, and although they can be removed like all other colours, yet they may serve the temporary purpose of preventing life being sacrificed through accident.

957. *Chairman.*] And they are cheap, and easily obtained?
Yes, they are. Then comes the 10th clause, as to poison given or delivered; I have no remark to make upon that.

958. Duke of *Somerset.*] Would you retain clause 11?
That is, the exemption of medical prescriptions and the exemption of wholesale dealing for trades.

959. It allows paper-stainers, for instance, to get as much arsenic as they please, though you say that it is most unwholesomely used?
Yes, it is so indeed; that is the difficulty; there is no doubt that it would be resisted; any attempt to prevent the procuring of arsenic would create a very strong feeling of opposition, although I think it an improper use.

960. You mean, that it would be resisted because of the effect upon the trade?
Yes; it is such a very cheap colour; one misfortune of arsenic itself is its exceeding cheapness.

961. People who have bought this paper have bought it in ignorance of its dangerous effects?
Yes; it is a very serious thing indeed, and it will be for your Lordships to consider whether something like the regulation in the Prussian rules should not be introduced, that the open sale of that green pigment containing arsenic should be prohibited.

962. *Chairman.*] The choice ought to be between some regulation of that sort, or the omission from the 11th clause, because by the Bill itself, a person wishing to get it for the manufacture of paper might always get it by certificate?
Yes.

963. Supposing the 11th clause were struck out, and that no regulation for prohibiting arsenic being applied to paper were enacted, any paper-stainer might obtain the arsenic by getting a certificate from a justice of the peace?
Yes.

964. Duke of *Somerset.*] Why is it necessary to retain the 11th clause at all? In the first place, with regard to wholesale or retail dealers, I apprehend it is taken from the Arsenic Act; from the extensive use of arsenic it was found that it would be impossible to shut it out altogether.

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965. They would only get it by a proper signature?
Yes.

966. Why should not they get it by a proper signature as other people get it, without reference to clause 11; they would go through that form of obtaining it?
Yes; in point of fact they should be put in the position of ordinary purchasers; I apprehend that this clause has been introduced from the Arsenic Act, merely because at the time of the passing of the Arsenic Act it was found that it would be difficult to legislate except by some concession of this kind. I quite agree in the principle referred to.

967. Would it be difficult for persons who wanted to get a large quantity of arsenic for purposes of trade, to obtain that certificate which you have indicated in the former clause, and so to obtain the arsenic?
No, I do not think it would; if a man wanted 10 lbs. he might get it by procuring a certificate from a householder.

968. Lord *Rossie.*] Would it not be easier for him to obtain it than for a person wanting a small quantity?
I think it would.

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned to Thursday next, Two o'clock.

Die Jovis, 2° Julii 1857.

LORDS PRESENT:

Lord President.	Lord Somerhill.
Duke of Somerset.	Lord Rossie.
Marquess of Salisbury.	Lord Talbot de Malahide.

THE LORD PRESIDENT in the Chair.

JOHN MOORE NELIGAN, Esquire, M.D., is called in, and examined as follows:

969. Lord *Talbot de Malahide.*] YOU are a Fellow of the Irish College of Physicians?
Yes.

970. And one of the censors?
One of the censors, this year and last year.

971. What is your duty as censor?
As censor, my duty is merely to examine in the college, and to assist the president in carrying out the laws of the college. I am also one of the inspectors of apothecaries and druggists' shops under the Irish Act of Parliament.

972. Marquess of *Salisbury.*] What Act is that?
The 14th chapter of the first year of George the Third.

973. Lord *Talbot de Malahide.*] You have also been employed by the College of Physicians in superintending the formation of the Pharmacopœia, have you not?
In superintending the formation of the Supplement to the Pharmacopœia. I was not a fellow when the Pharmacopœia was published; but I have published a work myself on Medicines and their uses.

974. The Supplement to the Pharmacopœia to which you allude was published last year?
It was.

975. At the same time as that at which this Supplement was added to the Pharmacopœia, were not certain new rules made as to the mode in which druggists should keep certain dangerous drugs in their shops?
Yes, at my suggestion.

976. Will you mention shortly what those rules are to which you allude?
The intention was that all medicines of a dangerous nature specified by the college should be kept in druggists' and apothecaries' shops in angular bottles, and that all the simpler medicines, those not specified, should be kept in round bottles; and also that all medicines dispensed by the order of a physician for external use should be dispensed in angular bottles, and those for internal use in round bottles.

977. There are also rules as to the mode in which these drugs should be dispensed at the shops, are there not?
Yes, for sale; that all dangerous drugs, as specified in our list, should be sold only in angular bottles or angular vessels, and the harmless drugs in round bottles or round vessels.

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978. *Chairman.*] Subject to that regulation, could poison be dispensed to any stranger coming into a shop?

Yes; we have no power at all in that respect. We considered that we had the authority to give these directions; but this has been rather a disputed question.

979. Lord *Talbot de Malahide.*] Under the Act of 1794 are there not general rules laid down for compelling the druggists to take certain precautions as to the parties to whom they dispense these poisons?

There are no rules as to that; only for keeping in their shops arsenic and its preparations under lock and key, and apart from all other drugs or medicines.

980. Can you give the Committee any information as to the effect of these rules?

Since the promulgation of these rules I have had an opportunity, and but a single one, of inspecting the apothecaries' and druggists' shops in Dublin, and that inspection is not yet completed; but in consequence of being told that I should be probably summoned by your Lordships, I last week completed the inspection of all the druggists' shops on the south side of Dublin, and some of the apothecaries' shops.

981. What do you mean by apothecaries?

We have an Apothecaries' Act in Ireland, a special Act of Parliament, by which no one is allowed to compound medicines by a physician's prescription, or to sell them on the prescription of a physician, unless he has passed an examination before this body. That is an Act of the 31st year of George the Third.

982. You have no druggists, in the English sense of the term, have you?

There are, to a certain extent, druggists in the English sense; we have druggists who sell drugs and poisons freely to the public, but who have no power, or rather are prevented from compounding physicians' prescriptions, so that we have two distinct classes in Ireland, druggists and apothecaries.

983. Duke of *Somerset.*] I do not clearly understand your distinction between the two. The druggists, you say, are at liberty to sell poisons?

Druggists can sell poisonous drugs, and all simple medicines, the same as any other individual can. Grocers sell them.

984. Are they subject to any Acts?

They are subject to the inspection by the College of Physicians, simply to see that their drugs are pure.

985. They are subject to inspection as well as the apothecaries?

Yes.

986. As I understand the matter, the only difference between the two is, that the druggist may sell a simple substance, and that the apothecary may make up a prescription. Is that the distinction?

That is the chief distinction between the two.

987. *Chairman.*] There is nothing to prevent the druggist from doing the same thing, is there?

He cannot compound a prescription.

988. Duke of *Somerset.*] But the apothecary may sell the simple substance?

He may if he pleases.

989. Therefore the apothecary may act as a druggist, but the druggist must not act as an apothecary?

Exactly so.

990. Lord *Talbot de Malahide.*] Did you find that the rules with reference to the keeping of these substances in particular shaped bottles were observed by these apothecaries and druggists?

Not by druggists in any instance, and by apothecaries in only a small number of instances. The matter has come under my observation more from my practice as a physician than from inspecting their shops.

991. *Chairman.*] Is there any person under your Act responsible for seeing that the provisions of the Act are carried out?

No.

992. Duke of *Somerset.*] You referred first of all to the Act of 1761; that Act only applies to Dublin?
It applies to Ireland.

993. It is stated in the Act that it only applies to Dublin, and ten miles round it?
That is where it gives us the power of inspection; but in another clause of the Act your Lordships will find that there is a power given to the chief magistrate of each country town in Ireland to call two or more physicians to his assistance to inspect the shops in the country town. I may remark that that has never been carried into effect, although we have often endeavoured to get it carried into operation.

994. Am I to understand you, that, as far as the inspection goes, that inspection only applies to Dublin and its neighbourhood?
The inspection by the College of Physicians applies only to Dublin and its neighbourhood.

995. What security is there, then, as regards the druggists and apothecaries throughout Ireland?
A power is given in the Act, but it has never been carried into effect.

996. Therefore, in fact, the law is a dead letter beyond ten miles from Dublin?
It is.

997. Lord *Talbot de Malahide.*] Supposing that the College of Physicians were disposed to prosecute a party at a distance from Dublin for the improper dispensing of medicines, is there not a power of doing so?
There is no power. There is a power in the Apothecaries Company of Dublin to prosecute any person who infringes their Act, but that is merely any person who compounds a prescription if he has not been examined and certified by them to be a qualified apothecary.

998. Duke of *Somerset.*] You have said that the Act is not carried into effect throughout Ireland. As there is apparently power in the Act to carry it into effect, what has prevented giving efficiency to the Act of Parliament?
The power is given, but there is no provision for paying the inspectors. That is the first thing; and in the second place the mayors and magistrates in country towns would scarcely undertake voluntarily this Act unless the Government directed them so to do. I may remark, that we have in one of our reports to the Irish Government called their attention to this Act, and to the fact that it has never been enforced in any way, which report I have in my hand.

999. Do you think that it would be possible to carry the Act out, that the public feeling would be in favour of carrying it out if inspectors were appointed?
Unquestionably so.

1000. You think that nothing but the question of the expense of inspectors prevents the Act being carried out?
That and the unwillingness on the part of local individuals to take upon themselves a duty which is not a very agreeable one; in fact, although we inspect in Dublin, we are not paid for doing so, and we have no person to enforce the inspection; we do it voluntarily in our college.

1001. Lord *Talbot de Malahide.*] Do you think that there ought to be a public prosecutor in such cases?
A public inspector rather.

1002. A public officer, whose duty it would be to prosecute in case it was required?
Of course.

1003. The College of Physicians, in conjunction with the Society of Apothecaries, examine all parties who apply to be licentiates of the Apothecaries Company, do they not?
The examination is conducted in this way: the Apothecaries Hall examine all those who have served their time to an apothecary; the Act states for seven years; it is practically now for five years. If the Apothecaries Company reject the applicant, as unqualified, when he comes before them, he can be re-examined

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in six months; and if again rejected, he can appeal to the College of Physicians, and we have the power then to examine him, and if we think fit, to license him as an apothecary, which has occurred in some 25 cases, as appears by the records of our college: the reason is, that the Apothecaries' Company have taken upon themselves to examine in the practice of medicine, and in the collateral sciences of medicine, in addition to pharmacy; but when we examine an apothecary who has been rejected, we only examine him in pharmacy and in materia medica.

1004. No person in Ireland is allowed to dispense medicines without going through an examination?
No one.

1005. And in case of any individual contravening that enactment, there is a power of prosecuting him?
Yes.

1006. Is that power vested in the College of Physicians?
No; it is vested in the Apothecaries Company.

1007. That power is but rarely exercised, owing to the difficulty and expense attending it?
That I believe has been very much the case with the Apothecaries Company; but more recently the Government have considered that they could criminally prosecute any person who offended against this Act, and there have been lately two instances within my own knowledge of criminal prosecutions for infringing the Act.

1008. Marquess of *Salisbury*.] Under what Act does that power exist?
As to the criminal power, I cannot tell; that is altogether a legal question. The Apothecaries Act is the one to which I referred just now, namely, the 31st of George the Third, the 34th chapter.

1009. Lord *Talbot de Malahide*.] The 22d section of that Act states that from the 24th of June 1791 no person shall be permitted to open shop, or act as an apothecary until he shall be examined?
Yes.

1010. Duke of *Somerset*.] Does that Act include druggists?
Not at all.

1011. Then, as regards the procuring of poison, poison may be procured throughout Ireland from druggists who may dispense it, although they have not passed any examination?
Yes, druggists and grocers; and the dangerous use of poison is too facile in consequence of that.

1012. As the Act only applies to apothecaries as regards malicious poisoning, there is no security?
None whatsoever.

1013. As regards suicide there is no security?
None whatever.

1014. As regards accidental poisoning, there would be a security, I imagine, because a person would go for medicine to an apothecary, and not to a druggist; is that so?
He may go, as is very often the case, among the lower orders, to a druggist's shop to buy Epsom salts. I saw last week, in inspecting the druggists' houses, that there were packets of Epsom salts made up in pennyworths, and packets of oxalic acid in pennyworths of precisely the same shape, differing only in the label, but sold freely. A druggist told me that he sold weekly half a hundred weight of oxalic acid in pennyworths.

1015. Do you know for what purpose?
I asked him; and his answer was that it was chiefly for cleaning bonnets, and for cleaning leathers and brasses.

1016. Marquess of *Salisbury*.] Then this clause of the Act of the 31st of George the Third has been only acted upon in two instances, as I understand?
The two instances which I referred to were of criminal prosecutions; this Act

Act has been acted upon in a number of cases, I would say some 30 or 40 cases, or probably rather more, since the Act was passed.

1017. Has it been acted upon of late years at all?
It has been acted upon within the last three years.

1018. Lord *Talbot de Malahide.*] Has the power of the Act ever been disputed?
Not that I am aware of.

1019. Marquess of *Salisbury.*] The 22d clause goes to state that no person is allowed to open a shop, or act as an apothecary, until he has been examined; have these prosecutions taken place under the authority of the College of Physicians?
No; we have no power at all in the College of Physicians with regard to prosecution under that Act; that is vested in the Governor and Company of the Apothecaries' Hall of Ireland.

1020. Have the Governor and Company of the Apothecaries' Hall in Ireland prosecuted these parties?
They have, and recovered penalties, a penalty of 20*l.* in some cases.

1021. For what reason have they prosecuted them?
Because they opened shop, and dispensed medicines, and physicians' prescriptions, without being licensed by the Apothecaries' Company in Ireland.

1022. How far was that from Dublin?
Most cases have occurred in the very north of Ireland, a distance probably of 120 or 140 miles from Dublin; and some in the extreme western districts, about the same distance.

1023. And the Apothecaries' Company resides in Dublin?
Yes.

1024. Duke of *Somerset.*] You said, I think, that no person throughout Ireland can dispense medicines as an apothecary who has not passed an examination?
Yes.

1025. That has been the law since the 31st of George the Third; what effect has that had in the education of apothecaries throughout Ireland?
The effect has been very good; we have got an excellent and respectable class of apothecaries, well-educated men, and well acquainted with the qualities of drugs, for the purposes of compounding our prescriptions, which we consider a very great advantage indeed, and it is one which has, I am quite sure, prevented poisoning and accidents to a great extent in Ireland; but unfortunately they have lately exceeded their proper province, and become physicians and surgeons themselves, so as to mix up the pure pharmacien with the practitioner of medicine.

1026. Lord *Rossie.*] You think that, from the knowledge which they have obtained, they consider themselves competent, and that people will trust them?
Yes, to a great extent; and they really are, to a certain extent, competent, for they receive a very fair education; but it would be much better to keep the practice of medicine and pharmacy separate, I think.

1027. Lord *Talbot de Malahide.*] They are obliged to be examined before they get their licence to practise as apothecaries?
They are.

1028. Where are they generally educated?
They are educated very generally in the schools of medicine in Dublin; they serve their time, it is supposed, for seven years; as I said before, it is practically only five years; they serve their time to an apothecary, and during the last year or two of that time they attend lectures upon anatomy, upon medicine, upon botany, upon materia medica, and they attend hospital for twelve months. That has been a rule made by the Apothecaries' Company of late years. Then, at the end of that period of two years, they are examined by the Apothecaries' Company.

1029. *Chairman.*] Has there ever been any complaint made of the constitution of the examining body?
The fact of the power of appeal to us being exercised occasionally, shows that there is a complaint made, and I think a fair complaint, that they examine all

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students, those apothecaries' apprentices, in medicine, as well as in pharmacy, while we think it better the party should be a pure pharmacien.

1030. Duke of *Somerset.*] Can you give me any notion what the education of a young man would cost who wanted to practise, say, in a country town in Ireland as an apothecary?

He generally pays a small fee, varying from 30 *l.* to 40 *l.*, to his master to be apprenticed to him, in the first instance; he pays a fee of 5 *s.* to the Apothecaries' Company in Dublin to be examined in general education, and of course he has the expense of coming to Dublin to be examined, if he does not reside there; but for that money he is fed and kept for five years in his master's house as apprentices usually are. Then, at the end of three years, if residing in Dublin, he will have to pay for his lectures and hospital a sum of, in round numbers, about 15 *l.*

1031. Take the case of a young man residing in a country town?

Then he will have to live for two years in Dublin; but usually he lives in the house of an apothecary; and acts as his assistant; he is paid 10 *l.* a year, and is fed by the apothecary, so that, practically speaking, his expenses are almost less than if he resided originally in Dublin.

1032. That is only in case he is fortunate enough to find an apothecary in Dublin who will take him as an assistant?

I think there is always a sufficient demand for them. I have been engaged in teaching medicine for a number of years as a lecturer on the practice of medicine, and an hospital physician, and I have a large experience amongst apothecaries in that way. I think there is almost always a sufficient demand for assistants.

1033. Lord *Talbot de Malahide.*] As you have given a considerable degree of attention to the subject of poisons, would you say that cases of poisoning are common in Ireland?

I would say that they are not so common in Ireland as in England; but I am very certain that a great number of cases which occur are never heard of. Unfortunately, cases of sudden death are not, I think, investigated sufficiently carefully in Ireland. I will give the Committee, if they will permit me, a reason for that opinion. In Dublin, for example, the coroner's physician is paid an annual sum, and not by the individual case, and there is no provision for an expensive analysis of the stomach of a person who has died suddenly, so that the coroner's surgeon is naturally not anxious to over-investigate cases of sudden death; he is paid an annual salary, and therefore the less he has to do, of course the better for him. The coroner, for a similar reason, is anxious to get over his inquest as soon as he can.

1034. Marquess of *Salisbury.*] Is it the practice to have a surgeon regularly appointed to attend the coroner?

That, I believe, is only the case in Dublin, and some of the other larger towns of Ireland.

1035. It is not left to the coroner to select his surgeon?

No; the coroner selects his surgeon in the country towns usually. He is obliged by Act of Parliament, properly speaking, to select the last person in attendance; but in Dublin the surgeon has always been appointed by the grand jury, or appointed by the corporation.

1036. Is he paid by fee?

The surgeon is paid a regular salary in Dublin.

1037. Out of what fund is that salary paid?

Out of the taxes on the city of Dublin; the corporation pay a certain sum to him.

1038. Lord *Talbot de Malahide.*] The coroner in Ireland is generally a lawyer, is he not?

He is very often an illiterate countryman.

1039. A medical man is very seldom appointed as a coroner, I believe?

I can remember only about four instances in Ireland.

1040. There have been restrictions on the sale of arsenic for a good many years in Ireland?

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There have been by the Act of Parliament under which we inspect, the Apothecaries' Act, and by the Act of Victoria, the Sale of Poisons Act of this country, which also applies to Ireland. But in no instance have I found that it has been carried into effect; and although the latter Act was in operation in the year 1851, last year, when for the first time we inspected the druggists' shops on the part of the College of Physicians, we found that in not a single instance was arsenic kept apart from other drugs or medicines, nor was it ever kept or ever sold mixed, nor did the druggists ever hear of the Act.

1041. Duke of *Somerset.*] They had never coloured it?

They had never coloured it.

1042. Lord *Talbot de Malahide.*] And had they never kept a record?

They had kept no register of that sort; some one or two said, "Yes, we have a record, for our own satisfaction;" there was no register. I may mention that in the inspection of the shops we have four censors of the College of Physicians, and with us are associated two apothecaries. We divide the town between us into the north and south sides, and one year we take the north side, and another year the south side. Last year, for the first time, the inspection of druggists' shops took place. I inspected the north side, and this year I have just completed, with my colleague, Dr. Barker, the inspection of the south side. I have made a short abstract of our report, in which there are some curious facts with regard to the sale of poisons. Possibly I may mention to your Lordships one or two singular examples. In one shop which we inspected, the arsenic was kept in an open crock in the shop on the same shelf with many harmless drugs; it was not coloured. The druggist stated that it is rarely sold. Strychnia, corrosive sublimate, and oxalic acid, are also kept in the shop, with no restriction; they are sold readily to all comers; of the latter about 14 lbs. a week. In the very next shop we examined, the druggist said that he sells strychnia in large quantity. He lately sold six drachms at one time to the agent of a large landed proprietor in the county of Kerry. All other poisons are freely sold. In another shop, near the shipping in Dublin, the druggist answered to me that arsenic was sold in immense quantity, always uncoloured. It was kept in an open vessel in the shop. The chief consumption was amongst ship captains for coating the bottoms of their ships. If asked for it by a purchaser for poisoning rats (I put the question to him), a young lad in the shop said, "Oh, sir, I always give cream of tartar." Instead of giving the customers arsenic for poisoning rats, he always sold to him cream of tartar. Oxalic acid and sublimate, and opium, were sold most freely. In another shop arsenic is kept in bottles in the front shop; it is sold only to those whom the druggist knows; it is sold uncoloured, but he keeps a private register. Strychnia is sold only by himself and one confidential assistant; chiefly to gamekeepers, in quantities of from a drachm to two drachms. Laudanum is sold to anybody, and in any quantity. We inspected 20 shops on the south side of Dublin, and in the previous year 17 on the north side. These were purely druggists' houses. In one of the wholesale druggists' houses we found, on inspection, that arsenic was kept in a loft in a large open cask, to which all the boys who were in the habit of mixing colours had free access. In his large grinding store, which he took us into to show us a specimen of a very excellent grinding-room, he was grinding white lead and ginger alongside each other in the same compartment, with the vapours floating about, and the workman very freely pointed out to us the excellence of the wheels for grinding ginger, taking his hand from the white lead grinding apparatus, and placing it on the ginger wheels. I certainly would not buy ginger if I was aware it came from that house. In all the shops we found that opium, laudanum, and the most active poisons were kept on the same shelf mixed with the most harmless drugs.

1043. Lord *Rossie.*] Did you find many other descriptions of poison sold?

That which was most freely sold in nearly every shop was corrosive sublimate; some shops sold as much as 8 lbs. and 10 lbs. a week of it.

1044. For what purpose?

Chiefly for graziers, for sheep-dipping purposes. In one house which we examined near Smithfield (we have a Smithfield in Dublin as there was in London), the druggist told me that he sold on market days 2 cwt. of arsenic to farmers; and in the country towns in Ireland arsenic is sold with the greatest freedom by grocers, and by dealers of every sort. I do not know whether your Lordships are

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aware of a very lamentable case which occurred in consequence of that lately in Ireland, viz., the poisoning of the Rev. Dr. Alexander, in which, I believe, I shall have to give evidence before the criminal court in the course of this month. I was brought down specially to see him; he had been unwell, and his daughter sent in to a country town in the King's County, near Tullamore, for some arrowroot. I saw the shop myself, a very small shop, in which arrowroot, rice, starch, sublimate, and arsenic were all kept in papers in drawers in the shop. The servant boy asked for a pound weight of arrowroot, and the lad in the shop in weighing it out found that he had not quite sufficient to turn the scale, and he opened the drawer and took out another brown paper parcel, and filled into the arrowroot sufficient to make up the pound weight. It was brought home to the house of Dr. Alexander (who was a son of the late Bishop of Meath), a mile and a half from the town; Dr. Alexander's daughter, a young lady about 15 years of age, went herself and made the arrowroot carefully, her mother being at the time absent; when it had been cooked, it was brought up-stairs to him; he tasted it, and told them that it had a nasty taste. The daughter, anxious to get her father to take the arrowroot, which the physician had ordered for him, took some of it, and said, "No, father, it has not a nasty taste." The man servant took three spoonfuls of it, and Dr. Alexander himself took five spoonfuls afterwards; they were all immediately seized with sickness and burning pain, and the young lady with great presence of mind got some mustard, took it herself, and gave it to her father and to the servant; they vomited, and she and the servant recovered, after three days' illness. I was brought down specially as a physician from Dublin to see the Rev. Dr. Alexander, in consultation with the country medical men, and I found him dying from the effects of arsenical poisoning; there were all the symptoms of it. He died the next day after my seeing him, poisoned by the arsenic.

1045. Were there any other poisons which in your inspection you found sold besides those which you have named?

These were chiefly what were sold.

1046. Lord *Talbot de Malahide.*] Is strychnine sold in country shops?

Yes. I may mention that in another case one of the druggists told us that he sold strychnia to anybody; also that he had been asked or written to in the previous week by a country gentleman for atropia, another active alkaloidal poison, and that it being a rather new substance, and 20 grains of it being required, he took the precaution of sending it through the medical man residing in the town near where the gentleman lived, solely because it was a new poison which was asked for.

1047. Lord *Rossie.*] Is much laudanum or opium sold by the druggists?

A very large quantity.

1048. By grocers?

By grocers in country towns.

1049. Do you know what it is used for principally; who are the parties that purchase it?

I tried to discover that as far as I could, and I was unable to do so; the druggists merely told me "Anybody that asks for a pennyworth of laudanum I give it to them."

1050. Marquess of *Salisbury.*] What quantity of laudanum or preparation of opium have you found sold in any case?

It is laudanum chiefly; and it is sold in pennyworths or two pennyworths; they also said that any quantity which a person asked for they would give; I asked a druggist in one of the large streets in Dublin, "Supposing you were asked for a pint of laudanum, would you give it?" he said, "Yes, to anybody."

1051. Lord *Rossie.*] Have any cases of poisoning from laudanum come under your notice?

Yes; there was a case of suicidal poisoning in which I was called upon to see a gentleman, in Dublin, some few years ago; he purchased in an apothecary's shop about two ounces of laudanum, and took it.

1052. Do you know of any cases of accidental poisoning from laudanum?

Yes; a short time since a case occurred within my own knowledge in which there

there was dispensed in an apothecary's shop laudanum in place of tincture of rhubarb to an infant; the laudanum was given by its mother, and the child died. In a second case which I was also cognizant of, the child recovered.

1053. Marquess of *Salisbury.*] It was given by mistake?
It was given by mistake.

1054. Lord *Rossie.*] Do you think that it would be possible to put a restriction on the sale of opium and laudanum?
I think as regards the sale by druggists, if all druggists were licensed, it would have a great effect in preventing the indiscriminate sale of poisons.

1055. *Chairman.*] Do you see any practical inconvenience in a system of licensing druggists?
Not the least; and I took pains last week to ask some of the druggists in Dublin their opinions, and they wished very much to be licensed, provided they were not charged too high a fee.

1056. Had they any objection to an examination previous to the licensing?
I did not inquire into that.

1057. Do you think that that would be desirable?
No, I do not think there is any occasion for it as regards drugs.

1058. Then what advantage would you gain from a licence being given without any assurance of the competency of the person seeking the licence?
Because in this case I regard the drugs sold as merely an article of trade; that the person selling them does not require to have any knowledge of what he is selling any more than a grocer, who, however, I believe, for his own sake, ought to have a knowledge of the sugars or the teas which he sells; but the advantage would be that you would have a fewer number of druggists. You would have a check on them by an inspection by the Excise officer, from time to time, and any directions given under any Act of Parliament, as regards the shapes of bottles or the keeping of poisons apart, could be fully carried out; therefore I think the advantage of the licence would be very great. And, moreover, should any Act of Parliament be passed, if it were printed on the back of his licence, the druggist could not plead ignorance as to the Act.

1059. In the case of Dr. Alexander you stated an instance where the boy dispensing the arrowroot had mixed up with it some arsenic. A person ignorant to that degree might, under your proposed system, obtain a licence if he paid the money?
Yes.

1060. You do not think that it would be advisable to place any restriction upon persons allowed to sell things so dangerous to the public as poisons, such as that it should be subsequently to an examination which showed that they had some knowledge of the properties of the articles in which they were dealing?
As regards those two substances, they have a certain similarity of appearance; of course they are easily detected by a practised eye. I have myself known instances of well-educated medical students not knowing the difference between the two substances; but if they were always kept in different shaped vessels in these shops a mistake could scarcely occur, at least so far as foresight could prevent it.

1061. What were the circumstances which induced you to recommend that precaution with regard to the shape of the bottles in the recent regulations?
I have for a long time turned my attention to the subject, chiefly from having written a book on Materia Medica, and also having lectured for a long time on the subject. I might probably state that the way in which the idea arose in my mind was this:—A case of poisoning occurred in Jersey with strychnia, and at that very time I was writing a review of my friend Dr. Taylor's work, as editor of the Dublin Quarterly Journal of Medical Science, which I have been for some years. It accidentally struck me in considering some means of prevention, that while the label could be easily rubbed off, or while a nurse might easily at night mistake the colour of a bottle, the shape of the bottle which was felt by the hand would, to a great extent, prevent mistakes. I therefore took the opportunity, when I was appointed upon a committee by the College of Physicians, with

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reference to a question which was mooted first by the Irish Government to us in order to get a report upon the means of preventing the sale of poisons as far as possible, to bring forward this fact before my College; the College were immediately struck with its importance, and they directed me, with the aid of some of my brother Fellows of the College, to draw up this Supplement to the Pharmacopœia.

1062. Duke of *Somerset.*] You say that you drew up this Supplement to the Pharmacopœia to make the apothecaries, as I understand, keep their poisons in particular shaped bottles?

Yes.

1063. Has a rule drawn up by the College of Physicians the force of law over the apothecaries?

We think that it ought to have the force of law.

1064. But has it practically the force of law?

Practically speaking, it has as regards the Pharmacopœia. Hitherto, when the Dublin College of Physicians has, in conformity with the Act of George the Third, published a Pharmacopœia, the custom has been to apply to the Irish Government for a proclamation from the Privy Council, which had been always granted. The same custom exists in London with the College of Physicians here. But singularly enough, when with the intention of preventing poisoning we drew up this Supplement, we applied to the Government, and they declined to give us a proclamation. The answer we got was, that they thought that it was an abuse having given a proclamation before, and that there was no occasion for it. Therefore, after waiting for three months to receive an answer from the Government, we published it on our own responsibility, prefixing the quotation from the Act of Parliament, which we considered was our authority for giving these directions.

1065. Do the words of the Act of Parliament give you authority not only over the Pharmacopœia, but over the sort of vessel in which the drugs shall be sold?

The words used are, "directing not only the form and manner, but the various vessels and other utensils, and the materials of which such vessels or utensils shall be respectively made or composed." It cannot be said that we exceeded the law, and we thought that we were acting rightly in straining this provision for the public good.

1066. That applies, as I understand it, to all apothecaries?

And druggists.

1067. In Dublin?

These rules apply to all apothecaries and druggists throughout Ireland.

1068. Only that there is no power to enforce the rules?

I am quite sure the power exists in the law officers of the Crown to enforce them; we have no power.

1069. Then the mode of keeping poisons which you have explained to the Committee, namely, keeping them together in a drawer in brown paper, may go on throughout Ireland equally now as before?

Yes, and it does go on.

1070. Has the examination of apothecaries, while it has made it more difficult for apothecaries to obtain their licence, tended to increase the number of druggists who sell poisons, and who are not obliged to have a licence?

I cannot tell that, because the Apothecaries Act dates from the year 1794. I cannot say how many druggists there were at that time in existence. With respect to the number of druggists at present within the bounds of the city of Dublin, I inspected last year 17 druggists' shops on the north side, and 20 on the south side this year. They sell paints, oils, colours, dye-stuffs, and medicines, in any quantity and of any description, if not compounded from a prescription.

1071. Do you think that the sale of any of these dangerous poisons might safely be restricted to the apothecaries, they not being allowed to be sold by the druggists?

Certainly;

Certainly; I can see no objection to it, provided the apothecaries would adhere to their own business, and not go out of their shops to practise medicine and surgery.

1072. Lord *Rossie.*] In country districts could you get a sufficient supply of apothecaries to meet the wants of the population?

I think with respect to the wants as to poisons, one apothecary would be quite sufficient in any town.

1073. Have you seen the list of poisons in the Bill?

I have.

1074. In poisons, do you include all those in Schedule A.?

All those, and many more.

1075. You say that it is not required to have apothecaries throughout the country to sell those articles?

The only difficulty would arise as to paints, when arsenic is used as it is very freely for paint. It would be rather dangerous to allow an apothecary to retain in his shop the large quantity required.

1076. Do you not think that there are cases where laudanum is frequently required in the country?

I cannot see any instance, except for horse medicines, in which case it may be very easily sold by an apothecary.

1077. Would there be a sufficient number of apothecaries throughout the country to supply the demand for those articles in Schedule A., some of which are in very general use?

There is probably a difficulty there which your Lordship has started. It might be overcome in this way, that if a licence was granted, then a druggist could sell paints and colours and poisonous drugs. A dealer in a country town might combine that with some other business, as is done at present; he need not be exclusively a druggist; but any respectable general dealer might be licensed as a druggist, and have a separate compartment in his shop for these preparations.

1078. But you think that either for a druggist, or for any person obtaining a licence as a druggist, it would not be necessary that he should pass an examination?

No, not as a druggist.

1079. Therefore the only difference would be, that you would make parties selling these poisons in the country obtain a licence?

Yes.

1080. But you would have no security as to their knowledge of the poisons in which they dealt?

I do not think that there would be occasion for it.

1081. I suppose there are dispensaries in Ireland?

Numbers of them under the Poor Law Act.

1082. To those dispensaries do the poor bring their bottles?

They do.

1083. To get filled, according to prescriptions given to them?

Yes, cups and jugs, and various vessels.

1084. Can they get medicine from these dispensaries without any prescription?

Yes; they come to the physician himself, or the surgeon who attends the dispensary, and of course he gives them not a prescription, but the medicine.

1085. Is there any security as to the description of vessel which they bring not having been used?

None whatever.

1086. Have any cases come under your knowledge where parties bringing a vessel to obtain medicine have, from its having been used for some poison, suffered from it?

I do not call to mind any case of that sort; but there are cases I know in which a person

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a person has got an external medicine in a tea-cup, and actually taken it internally, and been poisoned.

1087. But no cases have come under your notice in which the party has suffered from taking a medicine out of a bottle which had poison in it?

Not any. I know myself, from my own experience, that the physician to the dispensary either smells the bottle, or looks through the bottle, to see that it is tolerably clean, and if it is a dirty bottle, he will not give the medicine in it.

1088. You have stated to the Committee that you are in favour of bottles of a peculiar shape for certain drugs?

Yes; angular bottles are my idea, not quadrangular, as mentioned in your Lordships' Act.

1089. Would parties coming to a dispensary be able to procure these angular bottles, or would you, in the case of a dispensary, allow them to get the medicines in other bottles than angular?

What I would suggest there would be, that in all instances the physician of the dispensary should supply the bottle, taking care that it be again returned. At present, with regard to vaccination, something similar is done: the person is obliged to deposit 1 *s.*, that he may bring back the child, and show that it has been healthily vaccinated. My idea is, that in case of medicines, the individual should deposit, say 1 *d.*, which could be got back on returning the bottle; that, I think, would meet all the difficulties, either of putting the expense on the poor law, or of putting the expense on the individual.

1090. Then you think that, practically, there would be no great difficulty in carrying out that plan of angular bottles?

That is my opinion, and it has been proved in many cases in Dublin.

1091. Have you ever thought of the expense to which parties might be put, in the first instance, in procuring those angular bottles?

Yes, I have made particular inquiries about it, and I find that the first expense even of fitting up a shop in Dublin is very inconsiderable. I have inquired from one of our largest dispensing apothecaries in Dublin, and he says that the expense of making the alterations in his shop would not be above 5 *l.*; of course all the bottles at present in use will turn into use after a longer or shorter period, even where he is obliged to buy new bottles for dispensing.

1092. Then you think that in a large druggist's shop the druggist might procure sufficient angular bottles at an expense not exceeding 5*l.*?

Yes, because in most of these shops they at present have some angular and some round bottles; it would be merely, in some instances, changing the label.

1093. Besides angular bottles, would you have any distinction in the colour of the bottles?

I do not think there is occasion for that; there could be no possible objection to it; but I think myself that the angular bottle system is a sufficient one.

1094. An angular bottle should indicate either an embrocation or a poison?

Yes; I see no difficulty in the case; the label would indicate the difference. I saw myself, in some of the shops, that if the apothecary's boy, or the druggist's boy, was asked for what is called tincture of cardamoms, a powerful cordial sometimes purchased by the poor, it and laudanum were upon the very same shelf, the tincture of cardamoms and the tincture of opium both together, and nearly of the same colour, and therefore a mistake might easily occur; whereas, if one was in an angular bottle, and the other in a round bottle, the difference would be at once detected.

1095. *Chairman.*] It has been given in evidence as the opinion of persons of considerable experience in this matter, that there would be a danger in the introduction of any bottle of a peculiar shape, as inducing a false security; do you agree with that opinion?

I cannot at all agree with it; if it was once known to the public, and once known to the druggist, that all angular bottles were, to a certain extent, dangerous, I am quite sure that it would be a great safeguard, and there would be care also taken in filling the bottles from what I may call the large reservoirs of poisons, or of simple medicines.

1096. Lord

1096. Lord *Rossie.*] Would you have all compound medicines containing poison put into angular bottles?

No, not if intended for internal use; I would have simple poisons kept in the shops, or sold out of the shops, always in angular bottles; but those for internal use in medicine by a physician's prescription always in round bottles.

1097. Lord *Talbot de Malahide.*] In what kind of bottle would you put laudanum?

In an angular bottle.

1098. Lord *Rossie.*] What number of articles would you say should be included in the list to be sold in angular bottles; would you take them according to our schedule, or would you extend it to other poisons?

I certainly would extend that schedule.

1099. You would extend the schedule for that particular purpose?

Yes; I have been looking through your Lordships' Bill, and I see that some very active poisons are omitted; for example, caustic potash and caustic ammonia, which are in common use.

1100. How would you do in the case of powders, such as arsenic?

I would always have them kept in angular bottles; I would make it a rule, and that was what we intended.

1101. Could you have the large quantities of arsenic which are required put into angular bottles?

I would have it put in a large angular chest, with a lock and key; if the vessel is angular, I am satisfied.

1102. That is very well for the keeping of it; but in selling a large quantity of any powder which was of a poisonous character, how would you meet the difficulty which would arise as to getting a bottle large enough to contain it?

That could only occur, I think, with regard to arsenic, and there the colouring would be a sufficient protection.

1103. Then you would enforce the colouring with regard to arsenic?

Yes, and with regard to many other poisons also, which are colourless; I would not recommend the colouring of the vessels, but of the material.

1104. For certain purposes to which these powders, which are at present colourless, are applied, would not the colouring matter put in render them useless?

I am not aware with regard to arsenic that it would.

1105. But with regard to others, you stated that all colourless poisons you would have coloured; are there not many purposes to which these colourless poisons are applied where the colouring matter which you added would render them useless for the purposes to which they are now applied?

With oxalic acid that would be so, for instance.

1106. And cyanide of potassium?

Yes, when used for photographic purposes; but then cyanide of potassium would be always sold in an augular bottle.

1107. But there would be that difficulty arising in colouring all poisons?

There would, as a universal rule.

1108. If a party wanted a large quantity of any of these poisons pure, what precaution would you take, supposing it was too great a quantity to put into a bottle?

I do not think, except in regard to oxalic acid, that the quantity could make any difference, because the cyanide of potassium is never sold in a quantity too large to put into a bottle.

1109. Take the case of oxalic acid, for instance?

In the case of oxalic acid it would be very easy to say that if sold beyond a certain quantity, it might be sold colourless, as has been the case in the Act with regard to arsenic.

1110. And not in an angular bottle?

Not, when sold beyond a certain quantity.

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1111. Duke of *Somerset.*] With regard to the provisions in this Bill for colouring solid poisons with soot or indigo, and liquid poisons with archil, are they provisions which you would consider desirable?
I think they are very excellent.

1112. You think that archil is a good substance?
Archil I think is a very fit substance; it is harmless, and could not affect the qualities of the substances used. Indigo I think a far preferable substance to soot: I would scarcely allow soot to be employed in any case.

1113. Why do you consider indigo a preferable substance to soot?
Indigo when mixed with the arsenic does not give it a disagreeable appearance to the eye of the purchaser, and when wet or moist, it strikes a much darker blue colour than in the dry state of powder.

1114. Then you think it better to strike soot out of the Bill in that respect, and merely to leave indigo?
I think so.

1115. You have looked at this Bill generally?
Yes.

1116. Do you think the provision in the 5th clause a good one, namely, that poison shall only be sold to a person of full age, in the presence of a witness?
I think it a very good one.

1117. How would it apply to Ireland?
There could be, I think, no objection to it whatever. Our College of Physicians, at my suggestion, made another proposal, which proposal was forwarded to the Government in the first report which we made, at the request of the Government, on the subject. In the first instance, I made a proposal to the following effect, and the proposal was adopted by the College, namely, that no poison should, in any instance, be sold to the public except by the principal of the establishment selling it, unless when ordered by a duly qualified medical practitioner, or by an apothecary, "except wholesale, in such quantity as prescribed by the Act of Parliament, on an order in writing, in the ordinary course of wholesale dealing." My idea was this, that if you restricted the sale of poison to the principal of the establishment, he would take especial care both in the registering of it and as to the witnesses who were present while he was selling it; and I considered that no practical inconvenience, of much importance, could really occur to the public, from the occasional absence of the principal. Poison is not like medicine: medicine may be required in a hurry, but for poison a person can afford to wait; if he wants it for sheep-dipping purposes, he can wait or can send word, so that the principal of the house may be there. In that way I thought there would be an additional precaution were it enacted that the principal of the house should be the party selling; or probably it might be added to that, an assistant sufficiently qualified, or an assistant whose name was placed in the licence, that licence being renewed from time to time, as occasion might require. I think that they alone should be allowed to sell poisons, and not the young boys in the shops; and I found that this was the rule in one or two instances in Dublin. But I think it right to mention to your Lordships, that in a further report which was made to the Irish Government, the College of Physicians being afraid that, however desirable in principle this provision was, it might be attended with considerable practical inconvenience, retracted this proposal. That was the opinion of some of the senior members of our body, and therefore the College withdrew, in fact, the former recommendation which they had suggested.

1118. Was that proposal of yours intended to apply both to druggists and to apothecaries?
Yes, in the case of selling poisons; not in the dispensing of medicines.

1119. Lord *Talbot de Malahide.*] Is not there in the Apothecaries Act of the 31st of George the Third a section enforcing a certain qualification for the assistants of apothecaries?
There is.

1120. They

1120. They are obliged to have a certificate?
Yes; to pass a certain examination.

1121. Duke of *Somerset.*] With regard to the next clause of the Bill, "Entries to be made regarding the sale of poisons;" do you think that an advisable provision to be adopted for Ireland?
Certainly.

1122. You would apply it to druggists as well as to apothecaries?
Yes, for the sale of poisons; not for the dispensing of medicines.

1123. With regard to the next provision. You have spoken as respects bottles; but with regard to poisons having a covering of tinfoil, and being distinctly labelled, do you think that a good provision?
I should prefer not to allow a poison to be sold except in a bottle.

1124. If these provisions were applied to Ireland, it would be of very little use to apply them unless there were some system of inspection, and some means of enforcing the law when made?
Certainly.

1125. Otherwise it would probably be a dead letter, as the former Act has been throughout Ireland a dead letter?
Yes.

1126. What suggestion would you offer for securing the due enforcement of the Act so as to protect the public?
The chief suggestions which I would offer would be the licensing, and an inspection by Excise officers.

1127. Throughout all the towns of Ireland?
Throughout all the towns of Ireland. Excise officers are in all the towns of Ireland, I believe, and it would be very easy to carry out through them a monthly or a three-monthly inspection to see that the provisions of the Act were obeyed.

1128. Ireland is an excitable country. What would the druggists say to that provision suddenly coming upon them?
I inquired in Dublin, where I had the only opportunity of making an inquiry, and the druggists told me that they would prefer being licensed, because they said it would serve their trade. One druggist in a principal street in Dublin said to me, "If you have any recommendation to make to your College, will you tell them to prevent Mr. So-and-so and Mr. So-and-so over the way, who are grocers, from selling Epsom salts, and selling oxalic acid and sublimate." I asked him, "Would you wish then to be licensed?" "Certainly," said he, "to prevent that competition."

1129. You think that throughout Ireland they would be satisfied to be put under the Excise in that way?
I can only speak of Dublin, but my impression is that they would. Of course in the country districts where there is only one shop, the shopman would not like to pay the expense of a licence; he would know that he could have no competition in a small town. But the annual expense might be very small.

1130. Then there must not only be the expense of the licence, but there must be the inspection occasionally?
Yes, by the Excise officer.

1131. *Chairman.*] Would you defray the expenses of that inspection by the fees taken for the licences?
I think there ought to be no additional expense; the Excise officers exist already. It would take but a very short time for them to go through the druggists' shops in their district.

1132. Lord *Talbot de Malahide.*] I suppose the police would be as competent to make that inspection as the Excise officers?
I prefer the Excise officers; the police are constantly being changed. The Excise officers are more permanent.

J. M. Neligan, Esq., M. D.

2d July 1857.

1133. Duke of *Somerset.*] You have inspected the apothecaries' and druggists' shops, I think you said, in Dublin, on one side of the river?

On both sides. One side this year and the other last year.

1134. Do you ascertain the purity of the drugs according to your Pharmacopœia?

That is our chief object. We call for certain preparations to see whether they are pure. We ask to see the scales and weights to see that they are correct, and we just see that the shop is kept in a tolerably clean state. If the drugs are not pure, we have the power under our Act to burn them in front of the shop. I need scarcely tell your Lordships that we exercise that power.

1135. Do you believe that drugs throughout Ireland are sold in a state of purity, according to your Pharmacopœia?

Not always so. I was examined last year before the Committee of the House of Commons on the adulteration of drugs and medicines; I gave evidence there upon that head; but generally speaking, they are tolerably pure, and the Apothecaries' Hall of Ireland has been of great service in that respect.

1136. *Chairman.*] Are there any other statements which you wish to make which you think would be of use to us in the prosecution of this subject?

I think the following are the only observations which I have to make—namely, the shape of the bottles not quadrangular, but angular; the licensing of druggists; an inspection by Excise officers from time to time, so as to carry into effect the proposals in your Lordships' Bill; and only the principal of the establishment being allowed to sell poisons.

1137. Duke of *Somerset.*] I understood you to say that you agreed with the Bill in this respect, that you thought it desirable that the poisons should be kept separate in every shop where other drugs were sold?

Certainly; apart from all other drugs.

1138. We were told that the poisons would be continually taken down in making up medicines according to prescriptions, and that more danger than safety would arise from such a provision?

The rule in all respectable apothecaries' houses which I have seen is this, even with the youngest boys, that the person who makes up the prescription does not take down all the bottles from the shelf and put them on the counter before him, but he takes the measure which he is using, and goes to the shelf and fills the quantity from the bottle while at the shelf, and replaces the bottle immediately. I have seen myself in some of the houses in Dublin, presses under lock and key very excellently arranged, where no difficulty could possibly occur in the apprentice or assistant who was going to compound the medicine walking to the place where the press was kept, and turning the key, to fill out the quantity required into the measure. Therefore, I think that no practical inconvenience ought to occur. But I am quite sure that objections would be raised to anything which would increase trouble to the druggist or to the apothecary, and we have found that ourselves, especially in reference to those regulations which we have recommended in Ireland. The question, in my opinion, resolves itself into this, are we to have a free trade in poisons as in food?

1139. Lord *Talbot de Malahide.*] Of course you would not allow dangerous drugs to be kept in a grocer's shop mixed with other articles?

Certainly not; they should be very carefully kept apart.

1140. Marquess of *Salisbury.*] Supposing there was a strict law to prevent it, what system would you recommend to enforce such a law?

I have suggested the advantage of an Excise inspection, and in case of an offence being discovered, I would propose in the first instance a fine, for the second offence, perhaps, a double fine, and for the third offence the withdrawal of the licence.

1141. Would you give any remuneration to the Excise officer for such inspection?

Certainly not; I would make it a part of his duty.

The Witness is directed to withdraw.

ALFRED SWAINE TAYLOR, Esquire, M.D., F.R.S., is called in, and further examined as follows:

A. S. Taylor, Esq., M.D., F.R.S.

2d July 1857.

1142. *Chairman.*] HAVE you had the goodness to look at the list of poisons proposed in our Bill amended as proposed by you, and also the lists which are in force in Prussia and in France?

Yes.

1143. Have you drawn up tables which would show us the result?

Yes; I have tables showing what I have called the reduced English list; another column showing the Prussian list; a third showing the substances in the English list which are not in the Prussian; and a fourth showing the substances in the Prussian list which are not in the English; so that your Lordships might see at a glance the different views adopted in different countries. I have done the same with respect to France, and I have also given the dates of the French and Prussion regulations.

1144. Will you state the reasons why you think it advisable to omit some of the poisons which are mentioned in the other two lists?

I have struck out some, because I have heard so much objection made with regard to dispensing; I have put down 13 articles, but there are two or three other poisons which I think ought not to be omitted; they frequently come into dispensing in shops, and no doubt their being included in the list gives a great deal of trouble. If those who are connected with the dispensing trade could submit to the introduction of such substances as aconite and hemlock, I think it would be better. I have struck them out of the list; that has been merely from consulting their convenience, not from any opinion of my own that they ought to be omitted. I have endeavoured to think of what would be the very shortest list which could be taken for public safety.

1145. Marquess of *Salisbury.*] Is aconite very frequently used as a medicine?

Yes, it is coming very much into medical use. Your Lordships will see that there are some peculiarities in the lists of different countries; for instance, in the English list we place (and I think all will agree in the propriety of it) the essential oil of bitter almonds; this does not occur in the French list, but it does in the Prussian. Then we have oxalic acid and salt of sorrel, nux vomica, and cocculus indicus. These are poisons of which we have had experience in England, and the sale of which ought, as it appears to me, to be restricted.

1146. *Chairman.*] With regard to the essential oil of bitter almonds, is not there some way of preparing it which renders it innocuous?

The process does not render it perfectly innocuous. There is a mode of separating the prussic acid from it, but still it is a poisonous substance, and it would be impossible, except by a chemical analysis, to distinguish the safe from the dangerous preparation; as it is only used for giving a scent to soap, for perfumery of various kinds, and for flavouring confectionery, I think that, not being used as a medicine, it is a fit subject for restriction. It can never be wanted upon any emergency.

1147. Duke of *Somerset.*] It is never used in medicine?

No, it is too unsafe; the proportion of prussic acid in it varies from about 3 to 12 per cent.; consequently there would be no possibility of judging of the dose, so that it is not used in this country.

1148. In the French list phosphorus is included?

Yes.

1149. How is that restriction applied; does it mean that phosphorus matches may not be sold, or what?

No; I think it applies simply to phosphorus either in the pure state, or made up into a paste, as it has been frequently made for the purpose of destroying vermin. I do not think it applies to lucifer matches.

1150. In this country is it not used for destroying vermin?

Yes.

1151. *Chairman.*] Will you add to the 13 articles which you have recommended those three which you think ought to be included, but which you have excluded, merely with a view not to interfere with dispensing?

Yes.

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Yes. It happens with regard to hemlock that there are many pills in the different Pharmacopœias of the three countries containing small quantities of hemlock, with opium and other substances. The result of putting in hemlock generally, therefore, creates a difficulty, because unless it be specified as hemlock leaves, or hemlock tincture, or something very defined, it leaves it open to the dispenser to say that it is stopping his business, because he has to take a compound of hemlock and make a pill, and he has constantly to go to a locked-up place for it. That is not intended.

The Witness delivers in the following Papers:

RESTRICTIONS ON SALE OF POISONS.

13 Articles. Reduced English List.	17 Articles. Prussian List, Royal Ordinance, Oct. 24, 1855; Oct. 8, 1856.	7 Articles. Substances in English List, and not in the Prussian.	7 Articles. Substances in the Prussian List, and not in the English.
Arsenic and its Compounds.	Arsenic. White Arsenic.	Cantharides.	White Precipitate of Mercury.
Corrosive Sublimate and its Solution.	Rat and Vermin Powder.	Opium in Tincture, Extract or Powder.	Red Precipitate.
Poisonous Vegetable Alkaloids.	Yellow Sulphuret or Orpiment.	Chloroform.	Yellow and Red Iodides of Mercury.
Prussic Acid.	Arsenic, in all its different forms and combinations, and all colours containing Arsenic.	Oxalic Acid and Salt of Sorrel.	Cyanide of Zinc.
Cyanide of Potassium.	Corrosive Sublimate.	Nux Vomica.	Euphorbium.
Essential Oil of Bitter Almonds.	White Precipitate.	Tartarized Antimony and its Solution.	White Hellebore.
Cantharides.	Red Precipitate.	Cocculus Indicus.	
Opium in Tincture, Extract or Powder.	Yellow and Red Iodide of Mercury.		
Chloroform.	Prussic Acid.		
Oxalic Acid and Salt of Sorrel.	Oil Bitter Almonds.		
Nux Vomica.	Cyanides of Potassium and Zinc.		
Tartarized Antimony and its Solution.	Euphorbium.		
Cocculus Indicus.	White Hellebore.		
	Strychnia.		
	Veratria.		
	Nicotina.		

(signed) Alfred S. Taylor.

RESTRICTIONS ON SALE OF POISONS.

13 Articles. Reduced English List.	19 Articles. French List, by Decree, 8 July 1850.	4 Articles. Substances in English List, and not in the French.	10 Articles. Substances in the French List, and not in the English.
Arsenic and its Compounds.	Arsenic and its Preparations.	Essential Oil Bitter Almonds.	Belladonna, Extract and Tincture.
Corrosive Sublimate and its Solution.	Corrosive Sublimate.	Oxalic Acid and Salt of Sorrel.	Hemlock, Extract and Tincture.
Poisonous Vegetable Alkaloids and their Salts.	Poisonous Vegetable Alkaloids and their Salts.	Nux Vomica.	Cyanide of Mercury.
Prussic Acid.	Prussic Acid.	Cocculus Indicus.	Foxglove, Extract and Tincture.
Cyanide of Potassium.	Cyanide of Potassium.		Henbane, Extract and Tincture.
Essential Oil Bitter Almonds.	Cantharides, the Insect, Powder or Extract.		Nicotianine (Volatile Oil of Tobacco).
Cantharides.	Opium and its Extract.		Nitrate of Mercury.
Opium, in Tincture, Extract, or Powder.	Chloroform.		Phosphorus.
Chloroform.	Tartarized Antimony.		Ergot of Rye.
Oxalic Acid and Salt of Sorrel.	Belladonna, Extract and Tincture.		Stramonium, Extract and Tincture.
Nux Vomica.	Hemlock, Extract and Tincture.		
Tartarized Antimony and its Solution.	Cyanide of Mercury.		
Cocculus Indicus.	Foxglove, Extract & Tincture.		
	Henbane, Extract & Tincture.		
Proposed to be Added:	Nicotianine (Volatile Oil of Tobacco).		
Aconite.	Nitrate of Mercury.		
Hemlock.	Phosphorus.		
Phosphorus Paste.	Ergot of Rye.		
	Stramonium, Extract and Tincture.		

Alfred S. Taylor.

1152. *Chairman.*] Will you state what the paper is which you have in your hand? *A. S. Taylor, Esq., M.D., F.R.S.*

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I have looked with some care to see what amount of trouble would be given to druggists and dispensers as to the number of articles required to be shut up in a shop, or kept apart, and I find the taking the list which I have given, before making the additions which I have just made, the number of articles in bottles would be about 22. This is a list of them :

The Witness delivers in the same, which is as follows :

Arsenic, white, yellow, or green.	1 Cantharides.
Fowler's Solution.	3 Opium.
Donovan's Solution.	1 Chloroform.
4 Liq. Arsen. Muriatis.	2 Oxalic Acid. Salt of Sorrel.
2 Corrosive Sub. and Solution.	2 Nux Vomica.
1 Prussic Acid.	2 Tartarised Antimony and Solution.
1 Cyanide of Potassium.	1 Cocculus Indicus.
Essential Oil of Almonds.	
2 Almond Flavor.	22

With regard to arsenic, I think that all preparations of arsenic ought to be kept secluded from others. I have heard Dr. Neligan's evidence this afternoon, and I can quite corroborate some parts of it, that in well-regulated shops it is never the practice to place these dangerous bottles or to leave them on the counter. It is quite a mistake where that is imputed, and that arsenic and opium are found standing together on a counter. Druggists would be always, of course, putting the wrong medicine into the wrong bottle if that were the case. But the rule in a good shop is to go to the place where the bottle is kept, which is generally a separate part, to take down the bottle, and to measure off the quantity from it. I know shops where a laudanum bottle and an arsenic bottle are never allowed to be on the counter. The same principle might apply to a separate part of the shop set apart for these articles; there is no necessity for taking them out of their places. With regard to several of these substances, they hardly come under medical dispensing; for instance, oxalic acid and the salt of sorrel. Oxalic acid is chiefly bought for the purpose of cleaning straw, silk, leather, and articles of that kind; it is not used in medicine.

1153. Duke of *Somerset.*] Is oxalic acid one of the 13?

Yes; I have included under that, oxalic acid and salt of sorrel, because it is very nearly the same thing; I feel that the great difficulty in this list is opium, that is to say, laudanum; that is undoubtedly a difficulty. It is frequently required; but still the accidents which occur from its misuse are so numerous that I feel satisfied that unless some restriction were placed both on its being dispensed, and on the mode of keeping it in the shop, we should still have a number of deaths yearly from it.

1154. Might not it be allowed to be sold, as was suggested, in small quantities?

Yes, it might; the observation which I was making was in reference to the trouble imposed on dispensers in keeping it separate from other articles; at the same time, I would not deal with a shop, or send a prescription to one, where I knew that they were not in the habit of keeping these things separate.

1155. Lord *Talbot de Malahide.*] I see that a suggestion is made in a communication to the "Medical Times" with reference to laudanum: "The public justly complains that a sufferer from a sudden attack of tooth-ache or neuralgia, being unprovided with proper certificates, is obliged to grin and bear it from the want of laudanum. Might not these difficulties be removed without interfering with the object in view, by permitting all qualified chemists to administer a single dose, not exceeding a certain quantity, provided it were swallowed in their presence"?

Yes; I suggested, the last time I was here, that that would be one way of getting over the difficulty, but it would not meet the case of one person being sent for laudanum for another person, who could not get it for himself; still I think it would, in some measure, remove the difficulty.

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1156. Would there be any objection in a great many cases to insisting upon the party coming to the shop for the laudanum himself?

I think not; he might be too ill to come himself, but in that case he would require a medical practitioner to prescribe it, and that would remove the difficulty. I really think that most of these difficulties appear to have been constructed; I think that the restrictions, when once passed, would settle down into something like the quiet which we desire. With regard to the Prussian regulations, which are much more severe than any proposed by this Bill, a Prussian physician states, that in 15 years' practice in his official situation in one of the most populous districts of the State, only one instance of poisoning, which was accidental, took place among the inhabitants. I think that what has been done in France and Prussia, may safely be done in this country, and the lists which I have placed before your Lordships are certainly much more limited than those which these Governments insist upon.

1157. Marquess of *Salisbury.*] Are the regulations in Prussia strictly acted up to?

I believe they are. I have not been in Prussia lately to see that myself, but I take in a Prussian journal on Toxicology, and I also take in the French journals, having given my attention almost exclusively to the subject of poisoning. Where there is one case that occurs in Prussia, I think I may safely say there are 10 which occur in England. Taking the case of poisoning by strychnia, I do not believe that the Prussian and French journals have many instances of that kind; I find only one instance in about 18 years of poisoning by strychnine; and with regard to arsenic, poisoning by arsenic has been considerably reduced since the French regulations came in; at least, I judge so, because, taking in these journals, I do not see the cases of poisoning recorded which there used to be.

1158. Duke of *Somerset.*] How are some of these articles procured by the druggists in the first instance, for example, such an article as hemlock?

They are generally supplied by herbalists, people who gather them; and there are persons in Covent-garden called medical herbalists, who supply by wholesale the tinctures, the extracts, and other substances.

1159. Persons who wanted to get these articles for a bad purpose, might get them from the herbalists?

Yes; and that is a point which I think ought to be considered, whether herbalists ought not to be included with druggists where they deal in any particular poisons.

1160. *Chairman.*] Would they not be dealt with by this Bill either in its present shape or in the shape proposed, of requiring licences from those who sell poisons?

I see no difficulty in it at all; I think they might be included, and I should like to state an instance to your Lordships showing the importance of it. The clause says, "No person shall sell any poison;" it does not define the person.

1161. Duke of *Somerset.*] Supposing an apothecary wants to obtain from a herbalist, as usual, the hemlock which he has been in the habit of obtaining, will he have to go with a witness, and go through this form to the herbalist, before he can get it from the herbalist?

I should think not, under this Bill.

1162. *Chairman.*] The 11th clause would obviate that, would it not?

He might merely write for it himself; he might put down "hemlock," as much as he required.

1163. Duke of *Somerset.*] Then you would exempt the apothecary from the action of the Bill?

I would; I think that medical men must be exempted in all cases; and I think the public have quite sufficient security as to them when they have been examined, and know the properties of drugs. The apothecary is one who must have been examined; the druggist is not necessarily so. I was about to mention a curious instance with regard to belladonna. A gentleman living in Portland-place was attended by a physician, and he ordered an infusion of ash leaves; the leaves of the ash tree; a servant went down to Covent-garden to obtain these leaves; the infusion

infusion was made in the usual way; it was administered to this gentleman; he took it, and was seized with very severe symptoms, which lasted for more than 24 hours; in fact, they thought that he was dying; he was in a state of narcotism and convulsions. The physician was sent for; seeing the condition in which this gentleman was, he asked to look at the jug in which the infusion had been made; he thought there was nothing wrong about it, and he drank about a wine-glass of it himself. Another physician was in the room with him at the time, and after a short time he said, "I must sit down; I feel very unwell." The result was, that he went off into a complete stupor, and became most seriously ill; and it was not until he had recovered, and examined the jug, that he found that, instead of selling the ash leaves, they had actually sold belladonna, and this gentleman and the physician had had a narrow escape. There are people who deal in these drugs in shops who do not know one from the other; they would not know hemlock from parsley.

1164. Many of these herbalists are very poor people?

Yes; the articles might be collected, and put into the hands of a person properly qualified to sell them; but it is a most dangerous thing to allow persons to deal with these powerful articles, who may sell one for the other.

1165. Marquess of *Salisbury.*] Are not those who collect them for the herbalist a still lower class?

Yes. There is one safety which we have with respect to them, that they do not know how to use them. With respect to hemlock and other materials, there are circumstances in their very nature, their substance, their form, their taste, their smell, which would place a person on his guard, and prevent accidental poisoning; that is one great point with respect to them.

1166. *Chairman.*] You made some remarks on the 5th section on the last day of your examination; have you at all considered any mode of carrying out those views?

Yes; I propose to say, in order to obviate the difficulty of constantly procuring a certificate for each separate quantity of medicine or poison required, that "such certificate may, if required, be retained by the purchaser, after a copy thereof has been made by the vendor, and the said certificate shall be available for the purchase of the same poison for a period of six months from the date at which it was first issued, provided that each purchase of poison be entered in writing on such certificate by the vendor at the time of sale."

1167. Duke of *Somerset.*] Will you explain what you mean by that; do you mean that he may buy the same article from the same man, or that, having bought the article, and having got the signature, he may buy the same article from another man?

The proposition is, that, supposing a person requires opium or prussic acid, as a medicine, it would be an undesirable thing for him to be always procuring a certificate; he might continue to get the medicine not of the same man, but at different shops, by each vendor endorsing the certificate as so much sold at such a date, and taking a record of it in his book.

1168. For instance, if a person set out from London with a paper of this kind, and travelled down to York, and wanted a little more opium there, he might produce that certificate, and get his opium at once?

That would rather go against the provision of the Act, which says that the person must be known. Supposing a person is living in London who is in the habit of using opium or prussic acid as a remedy, and he complains of being put under severe restrictions by this Act, I mean that so long as he resides in that locality, and requires this medicine, he may have the power of using the same certificate, provided that it is each time endorsed, not that he should go constantly to the same chemist, but to some chemist in the same district where he is living. I may not have expressed that technically, but that is the meaning of it, that he should go to some one who would know the party from whom he had the certificate. It was suggested to me by a friend who told me that he was in the habit of taking prussic acid, and he said, "Now, is it to be the law that I am not to get my usual quantum of prussic acid without constantly going to some medical man to give me an order for it?" It struck me that some provision of this kind might probably meet this difficulty, if your Lordships considered it such, that the same certificate might be used. I presume in that case it would

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be for a person who only bought in small quantities, and where it was really intended for medicinal use.

1169. Lord *Somerhill.*] Do you see much inconvenience in that certificate being in general use throughout the kingdom, wherever a man might go?

Yes; I am afraid that it would have this evil effect: supposing a person only required 10 drops of prussic acid, he might go from London to York, and he might get his 10 drops at a great number of shops; it would only be the conscientiousness of the dealer seeing the number of indorsements of so many 10 drops at such dates which might induce him to refuse to supply it.

1170. But would not there be a responsibility upon the man who did not refuse it, seeing that to-day, on the 2d of July, the party had already obtained it at three shops, and was then applying for it at a fourth?

Undoubtedly.

1171. It appears to me that the check would be as great in the case of a man travelling in the country as in the same parish?

That is a matter of opinion for your Lordships to consider; but undoubtedly requiring an indorsement on the original certificate would be a very important check, because it could be soon found whether the poison was required for medicine or for criminal purposes. There is another suggestion which I would make with regard to the 5th section—namely, that on no account should the poisonous vegetable alkaloids, or their salts, be sold except under the prescription or order of a medical practitioner.

1172. *Chairman.*] Are those vegetable alkaloids used in any manufactures?

They are not used in any manufactures. They are not specified in the Bill, and it would be a very dangerous thing I think to specify them. All persons who are acquainted with chemistry and pharmacy know what they are. They are not required in any manufactures, and I would further observe, that they are not required for any domestic purpose in which a person not a professional person could with safety to himself or others use them.

1173. Duke of *Somerset.*] It has been suggested that this Bill, if it became a law, would be attended with very great inconvenience to all students of chemistry, or those who are engaged in making experiments, and studying the nature of substances, because they require to obtain their articles in a pure state; whereas according to that Act they could only have them mixed and coloured?

If we read over the list I think your Lordship will find that it is not so. I will begin with arsenic; that is not required.

1174. It is not required for what?

Your Lordship mentions students of chemistry.

1175. I am speaking of persons who are making scientific experiments; making themselves acquainted with the nature of a variety of simple substances, and who want these articles?

Then they might, upon the prescription of a medical practitioner, or even through their teacher in any medical school, obtain what they wanted in that respect.

1176. Is there such a provision in the Act that they could obtain it in a pure state?

Yes. The 8th section contains the words "save where such poison is stated in the certificate to be required for some lawful purpose, for which such admixture would, according to the representation of the person giving the certificate, render it unfit."

1177. And in that case such poison may be sold without such admixture in quantities of not less than half a pound?

I have suggested that that should be struck out; I do not see the use of it at all; in fact they should obtain it in any quantity. But I would observe that if a person knows anything of chemistry, if he is only a tyro at chemistry, he can separate the colour. That is merely a protection for the public who are ignorant of these things, and who desire to make a misuse of them; but a chemist can separate the colours. Oxide of manganese has been suggested for admixture with arsenic, as being of the same specific gravity as arsenic. Now, manganese is black, but it is a fixed body, while arsenic is a volatile one; so that if the powder were

were put in the flask and heated, all the arsenic would escape, and the manganese would be left behind. But I must advise your Lordships against the use of manganese, for the following reasons: it is a metal which if it is used with arsenic may be found in the stomach, and seriously interfere sometimes with the detection of poison. Where a quantity of arsenic is small, the presence of manganese may seriously affect the analysis. I do not see that there is any compensating good; therefore I should prefer putting in indigo, because it is perfectly innocuous; a person may take it in any quantity, while manganese is a little irritating.

1178. *Chairman.*] With regard to the 12th clause, have you considered that at all?

Yes. I should like to read to your Lordships a case which was communicated to me, and which in fact was given in evidence at the trial of Palmer, which I think would show strongly the importance of keeping poisons separate from medicines in shops; it was the case of Mrs. Sergison Smyth; it occurred at Romsey, in Hampshire. It seems that some draughts were ordered to be prepared, and Mr. Jones, the druggist, says, "After I had put up the draughts, and they were wrapt up, she" (the servant) "said, 'I think Mrs. Smyth wants some of the medicine that she had last; at all events, I will take one bottle.' I said, 'Very well; I will make it up directly;' she said, 'Let it be as quick as you can.' I told my apprentice to get the prescription book that I might see the prescription; I saw it contained *salicine*." That is a substance something like quinine, extracted from the bark of the willow, a very wholesome tonic. I wish your Lordships to observe that this is the druggist himself who is saying this. "I said to my apprentice, 'You had better go to Mr. Taylor's (a surgeon) and get me a little more, as I do not think I have sufficient;' he said, 'I do not think they have any more;' I said, 'What I have I suppose will be enough for a single quantity; perhaps you will take that, Caroline;' she said, 'Oh, yes, that will do very well.' I then got a four-ounce bottle from the place where they are kept, and went up some steps to get the *salicine*, which is kept on an upper shelf; the shelf is at one corner of the shop, where I keep things not often used; I reached down, as I thought, the salicine, and weighed out nine grains of it, and put it on some pink paper to put into the bottle; it appeared whiter on pink paper; I told my apprentice to write a label; then in that state he put on merely 'The mixture as before,' and he gave it to his young man to tie up as he was obliged to leave the shop. When the mixture was nearly finished, the servant said she would call again for it in a few minutes; it was beginning to get dusk. I had the gas lit immediately after making up the medicine. When I returned, the young man had wrapped up the medicine, and I wrote the name of Mrs. S. Smyth on the outside. The servant soon afterwards returned, and took the medicine away with her. The following morning I went into the shop as usual. My young man said, 'Did you see a horse gallop into town with Captain Smyth's servant this morning?' He said he saw Mr. Taylor (the surgeon) go off directly afterwards. I said, 'I hope Mrs. Smyth is not worse,' and turned round towards my desk. I then saw the bottle I had used the previous night. I took it up, and saw that it was labelled '*Strychnine*.' I said, 'Oh, my God, I have given this in mistake to Mrs. Smyth.'" That lady died in an hour and a half; she took about three grains. This druggist was tried for manslaughter at the Winchester assizes. I believe there was some ground of exculpation with regard to its being a chance medley, but the druggist afterwards destroyed himself in a fit of insanity. He kept the salicine and the strychnia close together in the same part of the shop; and I believe it is a very frequent practice that things *not often used* are put together, whether they are innocent or injurious. I myself had to give evidence in a case on a trial for murder, in which a child had been killed by three grains of arsenic being given to it, weighed out in mistake for calomel. It was ascertained that the arsenic bottle was kept on a shelf immediately above that on which the calomel was kept. The stomach was examined. Arsenic was found there, and no calomel; and there was no doubt that three grains had been weighed out in mistake. I might mention many other instances where accidents have occurred from this want of caution in keeping poisons and medicines separate.

1179. In consequence of that, you would recommend this addition to the 12th clause, "That no person under the age of 18 years, who has not been two years engaged in the practice of pharmacy, and in the art of dispensing, or who has not undergone examination either by the Apothecaries' Society or the Pharmaceutical

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Society, shall be allowed to sell or dispense any poisons; a penalty for the infringement of this rule to be levied upon the druggist employing the unqualified or incompetent assistant?

I throw that out as a suggestion for consideration. I believe that many accidental deaths arise from those who serve these things.

1180. On the subject of green paper in a room, have you any suggestion to make?

I doubt whether it can be included in an Act of Parliament.

1181. Do you not think it important to give great publicity to the fact of the poisonous character of such paper?

Yes, to let the danger be well known.

1182. Duke of *Somerset.*] The instance which you gave us the other day, I think, was that of a person at Birmingham who found himself ill, and who went to the sea-side and found himself better?

Yes; he was recommended to go by a medical man; before he went, the symptoms had some of the special characters of poisoning by arsenic.

1183. You said also that his room was lighted by gas, I think?

I think he burnt gas in the room.

1184. Do you think that the gas at all affected him?

I think not; I do not think the gas would have produced the symptoms under which he was labouring.

1185. Do you think that the gas was the cause of bringing out any portion of the poison in the paper?

It is very difficult to say how the material does get diffused in a room, whether by currents of air, or what it can be; I asked a very distinguished Prussian chemist who was over here lately respecting that (for I see that these arsenical papers are strictly prohibited in the kingdom of Prussia), and he told me that he thought it was from the mechanical diffusion of the loose dust where the powder was put on the paper in a very loose way. He said that he had noticed it on a microscope glass which had been kept for some time in a room where there was a flock paper; that he had seen particles of flock which were not visible to the naked eye, but which were plainly visible under the power of the microscope. I should like to furnish your Lordships with the particular case to which I referred (it is published), so that you might judge for yourselves; I will do so with pleasure; it was published about four or five weeks since. The paper was sent to me for analysis by the editor of the journal who published the case.

1186. *Chairman.*] Have any cases come under your knowledge of women being taken ill from wearing light green gowns?

No. I think it is not unlikely that there may be really many cases of illness due to some cause of this kind which has been hitherto unsuspected, but in which the symptoms have been referred to other causes. I doubt whether the arsenical green is used much in dyeing stuffs.

1187. Duke of *Somerset.*] Do you believe that they use it for dyeing stuffs?

I do not believe they do. I have found it in some of the ornaments which ladies wear in their hair; in those painted articles which look like rose buds. But with regard to its being used for dyeing either woollen or silk, or other fibres, I have no knowledge at all that it is; and I should think that it would hardly be employed.

1188. You tested this paper, you say, and you found so much arsenic in it?

Yes.

1189. Do you think that if you hung up the paper, and tested it after it had been hung up some time, you would then find less arsenic?

That is a question the answer to which would be very speculative. If I took a square inch of that paper, and found out how much copper it would cover, which would be one mode of determining the quantity, say that it would cover four square inches of copper, I think it very possible that there might be more arsenic when the paper was quite fresh than after it had been up some time. If you rub your hand over such paper rather roughly, some of that green material very easily comes off, and that, in time, may be the result; you may have those vapours about the

the room. It would be very difficult to give a quantitative analysis, for this reason, the paper may not be all equally covered with arsenic; one part may have a little more of the material than another. It is not a new matter, for in my book on poisons, which was published in 1847, I called attention to the subject, and then it was well known in Germany.

1190. Marquess of *Salisbury.*] Was there not an idea, some time ago, that particular candles emitted arsenic?

Arsenic was used in the manufacture of candles.

1191. Is it supposed ever to have an injurious effect?

Decidedly; vapour of the arsenic is evolved in the burning of the candle; it comes off in a kind of smoke.

1192. Are there any other poisons in colours likely to have an effect in a similar degree?

There is a kind of orange yellow containing arsenic. It is very much used in colouring the ornaments to twelfth cakes, and very frequently causes death in that way. The children eat the coloured sweetmeat, and they have all the symptoms of poisoning by arsenic, and die.

1193. Is not vermilion also used for a red colour?

Yes, but that is not a powerful poison.

1194. *Chairman.*] A gentleman who was examined alluded to the practice of dispensaries requiring the poor to bring their own vessel for the receipt of the drugs?

Yes.

1195. The first witness who mentioned that fact gave it as a reason why it would be impossible to restrict the sale of poisons to particularly shaped or coloured bottles, that those bottles would be used again, and that in process of time they would come to lose their distinctive characters in the minds of those who possessed them?

I do not think that either a good or satisfactory objection, but, on the contrary, I think that the present system of the poor bringing their own bottles, any kind of bottles, cups or saucers, or any kind of vessel, for receiving medicine, is a most improper and a most dangerous one; I know nothing more dangerous. One instance which occurred to my mind after leaving your Lordships' Committee on the last occasion, was a case in which I had to give evidence against a woman who was tried for the wilful murder of her child in Essex, and it is partly connected with this very question. The child had died from laudanum; the phial, which was a one-and-a-half ounce phial, was sent to me for an analysis of the contents, and I found in it opium and soap liniment. The woman said that she had had the bottle with drops containing iron, a solution of iron in alcohol; and it was proved by reference to the books of a dispensary that that had been served to her. But there is this evil practice, of the poor constantly using the same bottle for outside and inside applications. The iron-drops must have been exhausted, and the bottle must have been used by some neighbour or friend (for she had not seen it for a long time) for putting in opium liniment, which is never given internally; she not knowing that there was any harm in it, gave some to her child, and I believe killed it, without the intention of doing so. Fortunately for her, I was able to establish most clearly that iron had been in the bottle, because in pouring the iron liquid from the bottle, a little had gone over the label; and I found the iron still there, although no iron was in it when the bottle was brought to me. I mention this case to show that it is a fact, that the poor will put into a bottle without rinsing it, which has had perhaps corrosive sublimate, a medicine intended to be taken internally. It is altogether a bad practice, and it is really no objection which should be made to the practice of having one coloured or shaped bottle for outside use, and another for inside.

1196. Would the difference of expense be very great in providing new bottles?

I am assured that it would not. I mentioned the matter not long ago at a large glass manufactory in the north, and they assured me that if only the demand came up, the shape and blue colour would occasion no additional charge. In the better class of druggists' shops they use very white glass for medicines; that is much more costly in proportion than using green coloured glass of an angular shape.

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1197. Duke of *Somerset.*] I suppose you would give some time before you would make it compulsory to use a particular kind of bottle throughout the country?

I think the order would very soon be filled up. Those manufacturers in the north told me that they could work off any number of bottles of any shape or colour within a very short time: of course it would require a little time for all the country to be supplied.

1198. Lord *Somerhill.*] Practically, are you of opinion that in a year and a half, or two years, the whole country would really know the colour as well as the shape of the bottle?

Yes; I think it is very much the same as with regard to soda-water bottles; everybody knows what a soda-water bottle is. It is like the case of blacking bottles or ginger-beer bottles; almost every one knows by the shape what they are intended for, and I think we should very soon find the public associating in their minds the idea whether a medicine was for outside or inside application, by the shape of the bottle as well as by the colour. To me it appears a most wise and excellent precaution.

1199. Do you not think that the regulation as to colour might be extended to the paper wrapper also?

It might. I see no objection to it. I would say that the mistakes which occur through mixtures and draughts being put into similar bottles affect the lives of the middle classes, and I may say to a very great extent. The lives of the poorer classes to a very great extent are affected by their own carelessness with regard to putting different substances in the same vessels, and I think it a very hard case upon them that dispensaries and hospitals do not supply bottles as well as medicines. I have seen in hospitals this plan adopted, that a poor woman would bring a quart wine-bottle for a few ounces of a mixture; that no label would be put to it, but something simply written on a ticket, and stuck into the cork by a pin. Accident may cause that to be lost; and if that mixture is for a wash or a lotion, it may be taken by mistake for another medicine supplied in another bottle to be taken internally.

1200. Would you extend any regulation to be introduced for ordinary medicines to horse medicines and medicines for cattle generally?

I would, if they contained any one of the articles mentioned. I would be guided entirely by the schedule which was adopted.

1201. Duke of *Somerset.*] You have heard the evidence given here to-day respecting Ireland, that the Acts which have been passed have been in many cases a dead letter, because it was no one's interest to enforce the Act. With regard to this Act, and the penalty for offending against it, in the 13th clause, do you think that this Act, merely with this penalty, would be sufficient, or that it would be necessary to take some further step, and to make some further provision to secure the enforcing of the Act?

It would be necessary to make some further provision.

1202. Having given so much attention to the subject of poison, have you considered what provision might be adopted in this country with most convenience, and which would be effective for the purpose?

That is very much of a technical and legal question; but I feel, with regard to this Bill and the Arsenic Act, and other Acts of a similar kind, that if there is no public prosecutor to enforce the law, however excellent the provisions, the remedy becomes inoperative. I would only suggest, that if there were any medical officers appointed for different districts, or a Board of Examiners, which has been talked of, under their directions prosecutions might be carried on if necessary; but I know of no machinery by which the law can be enforced.

1203. If we merely passed this Act as it is, and took no further step to enforce it, do you think that it would have full effect?

It would be a very invidious thing for a private individual to take it up; I do not see that any benefit would be done. I am afraid that with it, as with regard to the Smoke and Nuisances Act, there would be a difficulty, without an order from the Secretary of State, or some special order for a prosecution to be instituted.

1204. Lord *Talbot de Malahide.*] Private individuals would not like to incur the expense of a prosecution?

And they would not like the invidious position of appearing as informers or prosecutors; and if your Lordships were to put in a clause that one-half of the penalty should go to the informer, it would have a bad effect, for it would raise up a class of men who would merely look to the technicalities of the matter, and who would annoy the chemists.

1205. They would be annoying the chemists, or getting money out of them?

Yes. I see that the fine in France is much heavier than that proposed in this Bill; it is 500 francs, and 3,000 francs, that is about 20*l.* and 120*l.*; that is a very heavy fine. I have reports of a great many cases where persons have been thus fined in France for violating the provisions of the law. They appear originally to have taken place in this way: the persons connected with the police of the district have given information to the magistrate, and the party has been had up before a person who would correspond to our police magistrate. The question is whether in this country the police would be the proper body for enforcing the Act.

1206. I see that the French prohibit the use of arsenic for steeping grain, embalming bodies, and preserving specimens of natural history?

Yes; they are very strict about arsenic, and there are other substances which may be used equally well.

1207. *Chairman.*] Have you any other point to bring before us?

I have no other; but I quite agree in what the Duke of Somerset has suggested, that the Bill will really be without any practical operation unless some person is nominated, or some class of persons are nominated, to superintend prosecutions for violations of the Act.

1208. How would you obviate that objection; have you considered the point?

That is more a legal than a medical question. We have no public prosecutor, or I should say it ought to fall more properly on a public prosecutor to institute those proceedings; it affects public health and public safety.

1209. Marquess of *Salisbury.*] Would any advantage be derived from the employment of Excise officers, as has been suggested by the last witness?

The Excise officers in this country are a very different class, I suspect, from those in Ireland. I do not think that they would be the parties to know about the preservation of drugs, or the keeping of drugs; I think there would be a difficulty about that. The higher class of policemen would be the men, if they could be trusted with the power to institute proceedings; then there would be this difficulty, there ought to be some supervision over druggists' shops, either by the College of Physicians, or some active supervision from the Apothecaries or Pharmaceutical Society, so that shops might be periodically visited, and that the state of the shops might be seen as to the bottles, and the labelling of them, and the keeping of the medicines apart from the poisons, in fact, to see that these rules were observed.

1210. Lord *Talbot de Malahide.*] There is at present a power on the part of the College of Physicians to visit the druggists' shops?

Yes.

1211. But it is almost a dead letter?

Yes; they just make one or two visits in a year, and look over a few drugs.

1212. And they have the power of destroying drugs?

Yes, if they are found to be bad. I have marked in the Bill which I have given to your Lordships all the points which I would suggest for your consideration; I think that as the list stands in the schedule which I have given to your Lordships, there really cannot be any fair ground of objection by reason of giving trouble in dispensing, while there would be, I think, a great protection of life by the observance of it. I have endeavoured to come to some estimate of the number of cases which I have seen; I think I have had in the last 26 years certainly more than 100 cases of deaths from arsenic alone.

1213. *Chairman.*] And how many from laudanum?

Not so many deaths from laudanum; they are mostly among children. When they are brought to the hospital they are treated, and the greater number recover; five

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five out of six probably recover of those who are brought early to the hospital. The other poisons have been chiefly oxalic acid, corrosive sublimate, prussic acid, and chloride of zinc.

1214. Lord *Somerhill.*] What proportion of the deaths to which you allude were from accident?

It is very difficult to give an estimate of that; I gave some statistics at our last meeting which throw a little light upon the subject. There are no regular statistics of deaths from poison—of individual poisonings.

1215. I understood you to say that you had had about 100 fatal cases from arsenic; how many do you suppose of those were criminal cases?

I am referred to mostly in criminal cases, so that that would be hardly a fair estimation, since they are referred to me from all parts of this country; I should think that the greater portion of the cases which I have had have been criminal cases; perhaps 60 have been criminal cases out of the 100 of which I am now speaking; then that is because they have been cases of some difficulty, and they have been brought to me from all parts for analysis. But with regard to accidental poisoning from arsenic, speaking as nearly as I can from reading and information, I should think that there was not one criminal case to above 10 or 12 accidental.

1216. That is your opinion generally of the cases throughout the kingdom?

Yes, taking them altogether.

The Witness is directed to withdraw.

Ordered, That this Committee be adjourned.

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Enforcement of Act. Importance of proper means of enforcing any Act which may be passed, *Calvert* 587-589. 606; *Neligan* 1124, 1125——Whatever restrictions are adopted they will be of little use unless definite measures are taken for their enforcement, and for the application of penalties; doubt as to the proper machinery to be employed for this purpose, *Taylor* 948. 1201-1209——There should be a public inspector, whose duty should be to enforce the penalties of the Act when violated, *Neligan* 1001, 1002.

Entry and Registration of Sales. Objection to the system of entry and registration of sale, as proposed in the sixth clause, *Bell* 12-22——Present practice of chemists in regard to entries of sales of poisons, *ib.* 13-21——With the exception of arsenic, there is now no

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As regards the prevention of criminal poisoning, a record of the names of the purchasers of certain poisons, but not of all poisons, might be kept, *Bell* 144–149—— Suggested addition to the amended Bill put in by Mr. Bell, of a clause in regard to registration, *Squire* 173.

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Ergot of Rye. Suggested restriction upon the sale of ergot of rye, which is used for purposes of abortion, *Herapath* 313. 408, 409——Usefulness of ergot of rye as an article of medicine, *Brande* 736.

Essential Oil of Bitter Almonds. Essential oil of bitter almonds ought not to be sold undiluted, *Abraham* 203——Restriction recommended upon the sale of this article, *Taylor* 846. 871. 1151.

Examination of Vendors. Importance of the gradual introduction of a system of compulsory examination of chemists, with a view to a proper education, as being the best security to the public in regard to the sale of poisons, *Bell* 63–67——After a certain date all persons vending medicines or poisons should be required to pass an examination, *ib.* 111, 112. 121. 135——Anticipated willingness on the part of young men to come forward for examination if corresponding privilege were thereby conferred in regard to the sale of prohibited medicines, *ib.* 135.

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Considerations as to the constitution of the council to undertake the proposed examinations and to grant the licences or certificates; three members from the College of Physicians, three from the Apothecaries' Society, and three from the Pharmaceutical Society, would form an efficient body, *Taylor* 878–887. 904–906——Two or three members of the Board should be competent to grant certificates, *ib.* 885, 886——The parties coming before the Board of Examiners might contribute a small fee, *ib.* 887.

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Excise, The. Proposition that the sale of poisons be under the control of the Board of Excise, and that no person be permitted to sell any poisons specified in the schedule in the Act without first having obtained a licence from the Excise, *Wilson* 627 *et seq.*—— Discretion proposed to be placed in the Board of Excise in granting or refusing licences, *ib.* 634–636. 641. 656–659——Clauses suggested in order to carry out witness's system, *ib.* 659.

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Exemptions. Exception taken to the exemption, in the eleventh section, of a variety of non-professional trades from the operation of the Bill, *Bell* 57–59——Suggested exemption of all registered pharmaceutical chemists from the operation of the Bill, *ib.* 59–62——Explanation as to the amended Bill prepared by the Pharmaceutical Society, proposing to exempt members of the society from its restrictions, *Morson* 167——With a limited schedule there should be no exemptions as regards farmers or others being subject to the restrictions of the Act in effecting purchases, *Herapath* 420–427——As regards the eleventh clause exempting medical prescriptions and wholesale dealing for trades, it might be as well to strike it out altogether, *Taylor* 958–968.

See also *Apothecaries.* *Students.* *Trade Purposes.*

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Farmers. Suggested privileges to farmers in regard to purchasing certain quantities of arsenic, &c. without limit, *Edwards* 301.——*See* also *Exemptions.*

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Fowler's Solution of Arsenic. Suggested restriction upon the sale of Fowler's solution of arsenic, *Herapath* 313; *Taylor* 871.

France. In France certain poisons are kept in separate cupboards; the practice is not very strictly carried out, *Bell* 70–74——There is no more precaution taken in France than in this country in regard to keeping poisons, *Morson* 77.

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The law in France in regard to the sale of poisons is very strict; mention of the several poisons, nineteen in number, which are restricted in sale, *Taylor* 841–845——Difference between the French list of restricted poisons and the list in the present Bill, *ib.* 845——In France the restricted articles are kept separately, *ib.* 848.

Comparison of the list proposed by witness with the French list, *Taylor* 1143. 1151——Salutary effect of the restrictions in France, *ib.* 1157——Heavy penalties for violation of the law, *ib.* 1205——Strict prohibitions upon the use of arsenic, *ib.* 1206.

G.

Germany. In Germany, but not in France, poisons are kept by the druggists in peculiarly shaped or coloured bottles, and in separate cases or closets, *Calvert* 560.

Grocers. Evil in the sale of poisons by grocers, *Calvert* 616——Objection to the power of druggists and grocers in Ireland to sell poisons without restriction, *Neligan* 1010–1015.

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Guy's Hospital. Statistics relative to deaths at Guy's Hospital from poison during the last few years, *Taylor* 789–792.

H.

Hammill, John. (Analysis of his Evidence).—As Police Magistrate at Worship-street has seen many instances in which laudanum seemed to have been sold very incautiously and improperly to wretched-looking persons whose object was suicide, 468–477——Difficulty as regards legislative enactment restricting the sale of laudanum to poor persons, 470. 478. 482–488. 491, 492——Only one case of arsenic poisoning was brought before witness in ten years, 471. 489, 490——Instance of a case of poison by means of sulphate of potash, 471, 472. 481——It might be of use to require poor persons (as well as others) to sign their name or put their mark in each case of purchase of laudanum, 486–488——Doubt as to the expediency of requiring magistrates to give certificates to purchasers, 493–496.

Hemlock. Non-objection to restriction upon the sale of hemlock, *Abraham* 214, 215——Proposed restriction upon the sale of hemlock, *Taylor* 1151.

Herapath, William. (Analysis of his Evidence).—With reference to the Arsenic Act, witness considers that whilst it has lessened poisonings by arsenic it has driven the secret poisoner to other poisons more difficult to detect, 307–309. 393–396. 465, 466——Doubt whether any restriction upon the sale of poisons will prevent suicide by poison, 310, 311——Importance of a system of registration as a check upon the purchaser in the case of intentional poisoning, 312. 327–332. 366.

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Herbalists. Belief that there is more danger from the unlimited sale of herbs than from the articles in druggists' shops, *Herapath* 434——Consideration of the probable effect of the proposed restrictions upon sales by herbalists or itinerant vendors; necesssity of applying the Act to those persons, *Calvert* 593-601——Herbalists in France must be licensed, and cannot sell drugs, *ib.* 611-613——Importance of imposing due restrictions upon herbalists in regard to the sale of hemlock, belladonna, &c., *Taylor* 1158-1165.

Horse Medicines. Horse medicines containing poisons should be kept in peculiarly-shaped bottles, *Taylor* 1200.

I.

Inspection of Druggists' Shops. Suggested power of examination into the quality of the drugs in chemists' shops, *Birch* 771.

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Witness is one of Inspectors of Apothecaries' and Druggists' Shops under the Irish Act of 1761, *Neligan* 971, 972——Remarks relative to the power of inspection of druggists' shops under the Act of 1761, and to the inoperativeness of such power through the want of properly appointed inspectors, *ib.* 991–1000——Chief object of the inspection by the Irish College of Physicians to see to the purity of the drugs, *ib.* 1133, 1134.

Ireland. Distinction between apothecaries and druggists in Ireland; the former may make up prescriptions and sell drugs, the latter can merely sell drugs, *Neligan* 981–989——Objection to the power of druggists and grocers in Ireland to sell poisons without restriction, *ib.* 1010–1015——Fewer poisonings in Ireland than England, *ib.* 1033——Belief that many poisonings occur in Ireland without being found out; objection hereon to the system of payment of coroners and of coroners' surgeons, *ib.* 1033–1039.

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L.

Labels. The labelling of everything with the word "poison" is the best possible safeguard, *Bell* 24. 36–38——Exception taken to the provision in the Bill in regard to the kind of labels to be used, *ib.* 106——The restrictions with regard to the labelling of external substances may be beneficial, *ib.* 111——Further objection to the provision in regard to the kind of labels to be used on bottles containing poison, *ib.* 174.

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Laudanum. Probable effect of the Bill in restraining the sale of laudanum and opium by grocers and others, *Bell* 91——Objection, on the whole, to restriction upon the sale of opium and its preparations, such as laudanum, &c., *Abraham* 218–232——The sale of opium and its preparations should ultimately be confined to well-qualified vendors, *Edwards* 282–290——Practical difficulty and inconvenience of restriction upon the sale of opium or laudanum, *Herapath* 313–315. 345–354——Difficulty as regards registration in the case of each small quantity of laudanum sold, *ib.* 348.

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Extensive use of laudanum and its preparations in Manchester, both for criminal purposes and for "quieting" children, *Calvert* 512–516——Large proportion of poisonings by laudanum, as shown by a return from the London Hospital, *Burch* 738——Reference to the large sale of laudanum in some parts of the county of Lincoln, some years ago, *ib.* 747.

Consideration of the obstacles to a restriction upon the sale of opium, or rather laudanum; suggestions hereon, *Taylor* 846. 852–862. 871. 1151——Adults requiring laudanum for toothache, &c., should drink it in the shop, *ib.* 853. 862——As so many deaths occur from the use of laudanum, it is essential to restrict its sale, *ib.* 859.

Further statement as to the expediency of restricting the sale of laudanum, though probably attended with some inconvenience, *Taylor* 1153–1156——Advantage of its being administered in the shop, *ib.* 1155, 1156——The deaths from laudanum are mostly among children, *ib.* 1213.

Leeds. Remarks on the circumstance of there being no less than 1,700 persons in Leeds who sell drugs, *Abraham* 251.

Legislation. Legislation, as in the Bill, commences at the wrong end, *Bell* 104——Doubt whether legislation can do much towards preventing poisoning, *Abraham* 190——On the whole, witness considers that the Bill cannot be made much better, *Calvert* 614——Legislation cannot altogether prevent criminal or suicidal poisoning, *Taylor* 805. 840——Advantage of repealing the Arsenic Act, and having but one general Act, *ib.* 920

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Licensed Vendors. Proposition that no person be allowed to sell any poisons specified in the Bill without having first obtained a licence from the Board of Excise, *Wilson* 627 *et seq.*——Clauses suggested in order to carry out witness's system of licensing; advantage of the system, *ib.* 659——Proposition that at the end of three years from the passing of the Act a licence should not be granted unless the party could prove himself duly qualified, *ib.*——The sum to be paid for a licence should be moderate, such as 10*s.* 6*d.* a year, *ib.*—— *See* also *Qualification of Vendors.*

List or Schedule. The Bill comprises only a very limited section of the list of poisons, and would not be effectual in its present form, *Bell* 92——Statement to the effect that there are as many poisons not enumerated under the prohibitions of the Bill as are enumerated, *ib.* 100, 101——Necessity of reducing the schedule very considerably in order to make the Bill practicable, *ib.* 103, 104.

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Liverpool. Statement showing the few cases of accidental or criminal poisoning in Liverpool, *Abraham* 300.

Liverpool Chemists' Association. Mr. Edwards and witness, who are pharmaceutical chemists, represent the Liverpool Chemists' Association, *Abraham* 187–189——Grounds upon which the association has petitioned against the Bill, *ib.* 191 *et seq.*

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London Hospital. Statistics of cases of poisoning at the London Hospital during each of the years 1846-56, *Burch* 738——Out of 228 cases brought to the hospital in eleven years only fifteen have terminated fatally; this has been owing to prompt treatment, *ib.* 739, 740——Use of poison in the neighbourhood of the London Hospital mainly for self-destruction; considerable dissipation in this district adverted to hereon, *ib.* 741–743. 749, 750.

M.

Maclagan, Dr. Reference to a communication from Dr. Maclagan, of Edinburgh, objecting to the requirement in the Bill in regard to the use of peculiarly shaped bottles for containing poison, *Bell* 175, 176. 178–180.

Manchester Sanitary Association. Witness has been connected with the Sanitary Association of Manchester, who have paid much attention to the sale of poisons, and highly approve of the present Bill, *Calvert* 498–500.

Manufacturing Districts. Increased number of intentional poisonings in Manchester, &c., through the facility of procuring poisons, *Calvert* 501, 502——Use of arsenic and sugar of lead among the manufacturing population, *ib.* 503——Inefficiency of the Arsenic Act in

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N.

Neligan, John Moore, M.D. (Analysis of his Evidence.)—Fellow of the Irish College of Physicians, also one of the present censors of the college, 969–971——Is one of the inspectors of apothecaries' and druggists' shops under the Irish Act of 1761; 971, 972——Reference to some new rules promulgated a year or two ago by the Irish College of Physicians, and made at witness's suggestion, as to the use of angular and round bottles by druggists in keeping and dispensing certain poisons, 973–978——Under the Act of 1794 arsenic is required to be kept separately, and under lock and key, 979.

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Remarks relative to the power of inspection of druggists' shops under the Act of 1761, and to the inoperativeness of such power through the want of properly-appointed inspectors, 991–1000——There should be a public inspector, whose duty should be to enforce the penalties of the Act when violated, 1001, 1002——System of examination of persons about to practise as apothecaries in Ireland, 1003. 1027–1029——Explanation relative to and in approval of the restriction in Ireland, that medicines cannot be dispensed save by parties who have qualified themselves on examination before the Apothecaries' Company; steps taken to enforce the restriction, 1004–1009. 1016–1026.

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Evidence relative to and in condemnation of the practice in Ireland in regard to the sale of arsenic; it is not kept separate from other drugs, and is sold uncoloured, 1039–1044——Result of the recent inspection by witness and Dr. Barker of druggists' shops in Dublin; highly objectionable practices discovered by them, 1042–1046——Indiscriminate sale of laudanum in Dublin and the country; instances of accidents therefrom, 1042. 1047–1053——Reference to the recent accidental death from arsenic of the Rev. Mr. Alexander, living near Tullamore, 1044.

Beneficial check upon the indiscriminate sale of poisons in Ireland, if all druggists were licensed, and if mere grocers were not allowed to sell poisons, 1054–1058. 1128, 1129. 1136——An examination as to qualification previous to the licensing of druggists would not be essential if proper regulations were enforced, 1057–1060. 1077–1080——Suggestion that the inspection and the enforcement of regulations devolve upon the Excise officers, 1058. 1126–1132. 1136. 1140, 1141.

Circumstances under which witness recommended in a recent supplement to the Pharmacopœia that all apothecaries should sell their poisons in angular bottles, 1061, 1062——Effect in law of the rules of the Irish College of Physicians relative to poisons, 1063–1069——Number of druggists in Dublin, 1070——Approval of the sale of dangerous poisons being restricted to the apothecaries, 1071–1076——In country places it might be well to license any general dealer as a druggist, under certain regulations, 1077–1080——Practice in supplying medicines from dispensaries in Ireland; absence of accident through the use of improper bottles, 1081–1087.

Evidence in support of the use of angular bottles for containing all poisons supplied to the public; few exceptions necessary to this rule, 1088–1100——Way in which angular bottles might be used in supplies from dispensaries, 1089——In the case of medical prescriptions comprising poisonous substances, round bottles should be used, 1094. 1096——The schedule in the Bill should be extended as regards the poisons to be kept or sold in angular bottles, 1098, 1099——The colouring of many poisons, as well as of arsenic, should be enforced, 1102–1107.

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Notoriety. Tendency of an enlarged schedule to draw the attention of persons to poisons heretofore not known to them, *Herapath* 357–362. 447–464——Advantage of drawing the attention of the pharmaceutical body to the fact of substances being poisons which they do not now know to be such, *Calvert* 615. 619.

Nux Vomica. There is no necessity for restriction upon the sale of nux vomica, *Abraham* 240——Suggested restriction upon the sale of nux vomica, *Herapath* 313; *Taylor* 846. 871. 1151.

O.

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Evidence with a view to restrictions upon the sale of opium and its compounds, though attended with some difficulty and inconvenience, *Edwards* 282–290; *Herapath* 313–315. 345–354; *Hammill* 482–488——Opium should not be sold without a licence, *Wilson* 651——Restrictions recommended upon the sale of opium, *Taylor* 846. 871. 1151.

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Oxalic Acid. A restriction upon the sale of oxalic acid would not cause much inconvenience, *Brande* 677, 678——Large number of poisonings by oxalic acid, as shown by a return from the London Hospital, *Burch* 738——Restriction recommended upon the sale of this poison, *Taylor* 846. 871. 1151——Large sales of oxalic acid by some Irish druggists, *Neligan* 1014, 1015. 1042——Oxalic acid and salt of sorrel are hardly ever used in medicine, *Taylor* 1152, 1153.

Oxide of Manganese. Black oxide of manganese would be better than soot or indigo for colouring arsenic, *Herapath* 410–414——Objection to black oxide of manganese as a colouring substance to be mixed with arsenic, &c., *Calvert* 530–535; *Taylor* 1177.

P.

Patent Medicines. Inefficiency of the Bill in not placing a restriction upon patent medicines; difficulty hereon, *Herapath* 362–364——Difficulty of an examination in the case of quack medicines, *Burch* 771——Vendors of patent medicines containing poisons should prove their competency before the proposed examiners, *Taylor* 911, 912.

Penalties. Objection to the provision in the thirteenth clause, that for a second offence the offender is to be disabled from carrying on business, *Bell* 100——Suggested lower penalty than is proposed for first offences, *ib.*

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Approval of severe penalties upon chemists for accident or infringement of regulations, *Brande* 728–733——An offence for the third time might be followed by withdrawal of licence, *Neligan* 1140.

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Pharmaceutical Society. Witness represents the Pharmaceutical Society, *Bell* 1——Date of establishment, objects, and operation of the society, *ib.* 2——It was founded in 1842, *ib.*——It has expended nearly 3,000*l.* a year in promoting the education, &c., of chemists, *ib.*

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Views of the society in opposition to several of the proposed restrictions upon the sale of poisons, *Bell* 2, *et seq.*——It has always been the opinion of the society that security would be better effected by an attention to the intelligence and qualification of the vendor than by any arbitrary regulations, as proposed in the Bill, *ib.* 2. 63——The society rejects about two candidates in every ten who present themselves for examination, *ib.* 68——There is not at present any actual restriction with reference to the competency of the assistants employed by members of the Pharmaceutical Society, *ib.* 80–83——System of examination undergone by some assistants, *ib.* 81.

Witness delivers in a copy of the Bill with such alterations in it as would render it unobjectionable to himself and other members of the Pharmaceutical Society, *Bell* 97–99——Reference to certain resolutions of the decisions of the society, upon which the Arsenic Act was founded, *ib.* 105, 106——Opinion of the society that the Bill even if amended must be a very partial and ineffectual measure, *ib.* 107–109——The society desires merely that all those who sell poisons may be properly qualified persons, *ib.* 108. 111, 112——Outline of the general views of the society, *ib.* 110, 111.

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Object of the society in amending the Bill to make it unobjectionable, and at the same time in some respects beneficial, *Morson* 166.

Largely increasing number of qualified assistants and principles through the operations of the Pharmaceutical Society, *Abraham* 290; *Herapath* 368.

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Phosphorus. Proposed restriction upon the sale of phosphorus paste, *Taylor* 1148–1151.

Poison Closet. See *Separate Poison Closet.*

Preparations or Compounds. Objection generally to the term "its compounds," or "its preparations;" each article should be specially defined, *Edwards* 302–304——All preparations or compounds should be severally specified in the schedule, *Herapath* 356. 428–431.

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Prussia. Limited extent of poisoning in Prussia, *Bell* 85——Beneficial effect of the requirements in Prussia in regard to the education of chemists, and the sale and custody of drugs, *Squire* 168–172——Check in Prussia upon the use of green copper colours containing arsenic, *Taylor* 824——Comparison of the proposed list with the list in force in Prussia, comprising seventeen articles, *Taylor* 1143–1151——Great benefits consequent upon the restrictions in force in Prussia, *ib.* 1156, 1157.

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Purchasers. Approval of an extension to several poisons of the provisions of the Arsenic Act, that the purchaser must be known to the vendor, *Abraham* 252–256.

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Qualification of Vendors. Gradual education of druggists through means of the Pharmaceutical Society, *Bell* 2; *Abraham* 290; *Herapath* 368——Main importance in the first instance of securing a proper qualification in all vendors of drugs by means of compulsory examination, *Bell* 63 *et seq.*——Remarks on a resolution of the Pharmaceutical Society, that the unrestricted sale of poisons by unqualified persons is the great source of danger, *ib.* 105, 106——Advantage if the sale of poisons were confined to qualified vendors, and if it were feasible to exclude from the register many persons now authorised to sell poisons, *ib.* 127.

Concurrence of witness, Mr. Squire, Mr. Bird, and Mr. Deane, with the evidence of Mr. Bell as to the main importance of proper education in the vendors of poisons, *Morson* 164, 165.

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Security can best be attained by restricting the sale of poisons to competent and educated vendors, *Abraham* 190. 215——Tendency of the Bill to throw the sale of poisons into the hands of a very low class of shopkeepers, *ib.* 191. 216. 222–224——Concurrence in Mr. Abraham's views as to an extension of the Arsenic Act to certain other poisons, the main points however being that all persons selling poisons should be properly qualified, *Edwards* 257–259.

Advantage of limiting the sale of the more dangerous poisons to properly qualified persons, *Herapath* 367–376——Difficulty in at once finding qualified persons for all druggists' shops throughout the country, *ib.* 367–369. 376——Objection to at once restricting the sale of all poisonous substances to qualified vendors, *ib.* 370, 371. 376——The chief security is the employment of qualified vendors, *ib.* 443. 451.

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Explanation relative to, and in approval of, the restriction in Ireland, that medicines cannot be dispensed save by parties who have qualified themselves on examination before the Apothecaries' Company; steps taken to enforce the restriction, *Neligan* 1004–1009. 1016–1026——Good character and slight expense of the education undergone by the Apothecaries in Ireland, *ib.* 1025–1032——An examination as to qualification previous to the licensing of druggists would not be essential if proper regulations were enforced, *ib.* 1057–1060. 1077–1080.

See also *Age of Vendors and Purchasers.* *Assistants* (*Chemists and Druggists*). *Examination of Vendors.*

R.

Refusal of Sale. The vendor should be empowered to refuse, arbitrarily, to sell poisons to any one not known to him, or whose motives he may suspect, *Brande* 720; *Taylor* 938.

Register of Vendors. In the first instance a register should be made of all persons dealing in poisons, *Bell* 111–120——All persons not registered should be precluded from selling poisons, *ib.* 111——Those now dispensing drugs should be registered, but their examination and licensing after a given time would be a great advantage, *Taylor* 863–865. 875–877.

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Restrictions. Objection to the difficulties proposed to be placed in the way of the purchase of several substances mentioned in the schedule, *Bell* 5–11——A prohibition to sell poisonous substances would be almost a prohibition upon the business of a chemist, *ib.* 136, 137——Tendency of the restrictions of the Bill to induce people to provide themselves on opportunity with a supply of poison in case of need, *Abraham* 191. 194. 225, 226; *Edwards* 289.

Evidence relative to the several poisons or poisonous substances in the list contained in the schedule; expediency or otherwise of restriction on the sale of each, *Abraham* 197–245——Grounds for concluding that a serious inconvenience to the public, without obstruction to the object of the criminal, would be the result of the proposed restrictions upon the sale of the numerous articles in Schedule (A.), *ib.* 300.

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S.

Salts of Mercury. Considerable number of poisonings by salts of mercury, as shown by a return from the London Hospital, *Burch* 738.

Savin. Savin, which is used to produce abortion, should not be sold without careful inquiry, *Abraham* 244——Suggested restriction upon the sale of oil of savin, *Abraham* 197; *Herapath* 313. 408, 409——Usefulness of savin as a medicinal article, *Brande* 737.

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Separate Poison Closet. Objection to the provision in the twelfth clause requiring vendors to keep all poisons in a separate chest or cupboard, *Bell* 69. 78, 79——Considerable difficulty, in practice, in keeping the poisons separate, *ib.* 69. 79——To keep all poisons in a separate cupboard would not be practicable or safe, *Waugh* 69——The cupboard would be in use all day, and could not be kept under lock and key, *Bell* 69.

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Sorrel, Salt of. Restriction recommended, *Taylor* 846–871. 1151.

Squire, Peter. (Analysis of his Evidence.) See *Bell, Jacob, Peter Squire, &c.*

Strychnia. Chemists generally refuse to sell strychnine to individuals, *Bell* 14, 15——Suggested restriction upon the sale of strychnia, *Herapath* 313——Greater use of strychnia in consequence of the notoriety of Palmer's case, *ib.* 359–362. 463——Large and unrestricted sale of strychnia in Dublin and in the country, *Neligan* 1042. 1046.

Students. Suggested exemption of Students from some of the operations of the Bill, *Edwards* 301, 302——Absence of inconvenience to students, &c., through the provisions in regard to the colouring of poisons, *Taylor* 1173–1177.

Sugar of Lead. Large number of poisonings by sugar of lead, as shown by a return from the London Hospital, *Burch* 738.

Suicide. Doubt whether any restrictions upon the sale of poisons will prevent suicide by poison, *Herapath* 310, 311——*See* also *Restrictions.*

Sulphate of Potash. Instance of a case of poison by means of sulphate of potash, *Hammill* 471, 472. 481.

Supplies to Chemists. Different classes of persons from whom chemists procure poisons, *Bell* 86——Probable effects of the Bill as regards restriction upon herbalists and others who supply the chemists, *ib.* 87–90.

T.

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Tinfoil Covering. Objection to the provision in the seventh clause, that "no poison sold shall be wrapped in paper only, without a covering of tinfoil," *Bell* 23.

Trade Purposes. Necessity of the exemption of chemical manufacturers from the eleventh clause of the Bill, *Bell* 153–158——Exemption under the eleventh clause of articles sold to artisans, *Abraham and Edwards* 259, 260——All sales for the purposes of business should be excluded from the Act, *Abraham* 304——Proposed schedule of articles to which for trade purposes restrictions should not be applied, *ib.* 304.

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V.

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Vendors. Objection to the fifth and sixth clauses of the Bill on the ground of the tendency to throw the sale of drugs into the hands of a very low class of vendors, *Abraham* 251——Any great restriction upon chemists would send the sale of laudanum, &c., into the hands of a low class of vendors, *Edwards* 276——Doubt whether restricting the sale to qualified persons would tend to throw the sale into the hands of an ignorant class, *Abraham* 290–292——Tendency of too wide a restriction to raise up a low set of dealers who would sell clandestinely, *Herapath* 435, 436.

Different practice of vendors of laudanum, &c., in supplying it to the public, on account of the present state of the law, *Taylor* 852. 858——Apprehension lest too severe regulations may throw the sale of laudanum, &c., more into the hands of a low class of vendors, *ib.* 858. 859——The shopkeeper should be made responsible for the acts of the assistant, *ib.* 902——Vendors who prepare their own medicines should, as regards the restricted articles, be subject to examination, *ib.* 907–911.

Advantage if the principal only were allowed to sell poisons, *Neligan* 1117, 1118. 1136.

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Wilson, Walter. (Analysis of his Evidence.)—Has paid much attention to the question of poisons, and has drawn up a pamphlet on the subject, 626——Considers that the Bill before the Committee is in some respects based upon sound and proper principles, but that its regulations are too stringent, *ib.*——Proposes that the sale of poisons be under the control of the Board of Excise, and that no person be permitted to sell any poison specified in the schedule of the Act without first having obtained a licence from the Excise, 627 *et seq.*

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Witness of Purchase. Advantage of requiring the attendance of a witness, rather than requiring a certificate, in the case of each purchase, *Herapath* 339-343——Certain poisons should not be sold without a witness, *Burch* 756.

Z

Zinc, Chloride of. Doubt as to the expediency of a restriction upon the sale of chloride of zinc, or Burnett's disinfecting solution, *Abraham* 205-210.